

**OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT  
AUGUST 10, 1993 WORKSHOP  
DRAFT FOLLOW-UP REPORT**

**NEXT STEPS FOR PROGRAM IMPLEMENTATION**

Predecisional Draft/March 7, 1994/12:36pm

9403250098 940308  
PDR WASTE PDR  
WM-11

## **INTRODUCTION**

The Office of Civilian Radioactive Waste Management (hereinafter referred to as the program), U.S. Department of Energy, invited stakeholders to participate in a public workshop on August 10, 1993, in Las Vegas, Nevada, "to develop and recommend a consultative process that will provide external parties meaningful opportunities to participate in the program's direction and decision-making."

A summary of the workshop discussion was developed and issued by Susan Wiltshire, who facilitated the session, and Carol Williams of JK Research Associates, Inc. Workshop participants were given an opportunity to review and comment on the draft summary prior to it being distributed in final form to Secretary of Energy Hazel R. O'Leary and workshop participants on September 24, 1993. The final summary also was distributed on October 20, 1993, to program stakeholders who did not attend the workshop.

This draft follow-up report describes the activities the program proposes to take as a result of the August 10 workshop discussion. Appendix A provides an analysis of each of the process options considered.

Before formally implementing any of the discussed public involvement initiatives, the program is distributing this draft document to program stakeholders for review and comment, concurrently with a copy to Secretary O'Leary for informational purposes.

## **GENERAL OBSERVATIONS**

The approximately 190 individuals who attended the day-long meeting represented a wide range of views and organizations. Although no consensus was reached on any one method for involving stakeholders in the Civilian Radioactive Waste Management Program, the workshop laid a foundation for the program's further dialogue with its stakeholders.

While many discrete ideas and suggestions were offered during the workshop, a number of general themes emerged:

- Stakeholders are not interested in the establishment of any one public involvement process to the exclusion of others.
- Stakeholders believe that the program should offer a "menu" of public involvement process options and should use approaches that are tailored to the situation and discussions at hand.
- Stakeholders want the program to be inclusive in its approach so as to allow all interested parties to determine their own level of participation.
- Stakeholders want the program to establish universally applied guidelines regarding how stakeholders are involved in the program.
- Stakeholders also suggested that public information materials and public involvement methods be designed to help people become involved in meaningful ways in the program rather than simply inform people about Department views and actions.

### **NEXT STEPS FOR PROGRAM IMPLEMENTATION**

The program reviewed the workshop discussion and grouped participant suggestions into nine process options. After analyzing these options (see Appendix A), the program organized the options into four categories from its perspective: (1) public involvement activities to be implemented, (2) an activity to be studied and developed further, (3) activities to be deferred, and (4) activities not to be implemented.

#### **Public Involvement Activities to be Implemented by the Program**

1. **Adopt Criteria for Public Involvement.** Workshop participants recommended that the program employ specific criteria as a first step in establishing a credible, effective

public involvement program. (The complete list of suggested criteria can be found in Appendix A.)

**Next Step:**

The program will adopt, to the maximum extent possible, the public involvement criteria discussed by participants during the workshop as a basis for developing a draft program policy on public involvement, which will be distributed to all program stakeholders for review and comment.

**2. Develop Review Process Similar to that of the Federal Energy Regulatory Commission and Described Under the Administrative Procedure Act.**

Some participants suggested that the program adopt a review process that was alternately referred to during the workshop as the "FERC-like process" (for a process used by the Federal Energy Regulatory Commission) or the "APA process," for a process set forth in the Administrative Procedure Act. The FERC process solicits public input early in the decision-making process; responses to a Federal Register "Notice of Intent" serve as background information during the development of a rule. The APA also solicits public input; it is not required to revise or adopt proposed regulations before it issues a final rule.

**Next Step:**

The program will develop a more formal and consistent review process, to be included in its menu of process options for involving the public in key program decisions. The process will be based on that used by the Federal Energy Regulatory Commission, although it will be tailored to accommodate the needs and concerns of this program and its stakeholders. The process will provide that the program releases drafts of documents for public comment by placing notices in the Federal Register and other mechanisms, such as direct mailings to key stakeholders. Notices also will be published to solicit public input on a series of questions related to program issues. The responses to these questions will be reviewed by the program and used to

formulate options and proposals for future consideration and ultimate adoption. The program will respond to stakeholder answers and comments in follow-up notices that will air, as much as possible, all sides of the issues. A full administrative record will be maintained.

The program will solicit stakeholder input to formulate and evaluate the review process.

3. **Establish an Office of Ombudsman.** Workshop participants suggested that an Office of Ombudsman be established to address and resolve stakeholder concerns. Another suggestion was made to initiate and implement a conflict-resolution process. (In its analysis of workshop suggestions, the program considered conflict resolution as one of the functions of an Ombudsman.) Some workshop participants also recommended that the Ombudsman report directly to the Secretary of Energy.

**Next Step:**

An Office of Ombudsman will be established to address stakeholder concerns, to establish and implement a conflict-resolution process, and to serve as a catalyst for modifying program plans and activities when in the public interest. The Ombudsman will have the authority to operate independently as a neutral conduit between the program and its stakeholders, and to enlist the support of program resources as required.

As a first step in establishing this office, the program will develop a description of the Ombudsman's functions and distribute it for public review and comment.

4. **Employ Neutral Party to Develop and Review Public Information Materials.** Participants suggested that the program employ neutral means to develop and review informational materials that describe program activities and explain technical issues. This suggestion was intended as a way to obtain agreement on the basic facts so that

the discussion with interested parties can focus less on arguments over the facts and more on the decisions to be made. Some participants stated that they did not trust government officials to provide objective and accurate information. Participants supported the use of a neutral external group, such as the League of Women Voters, to assist in drafting program materials.

**Next Step:**

The program supports this suggestion and will continue to use cooperative agreements to assist in creating informational materials for the public. Additionally, the program will pursue establishing new mechanisms, such as a publications review panel, to review information products prior to their release and to critique existing material for accuracy and objectivity.

5. **Use Focus Groups.** Participants suggested that the program conduct focus groups as a means of understanding the perspectives and concerns of specific groups, such as local citizens' groups and Indian Tribes. Participants believed that focus groups could allow a unique perspective to emerge. Focus groups also were suggested as a method for reviewing and developing public information products. No specific guidance was given on how this option could be implemented.

**Next Step:**

The program will conduct focus groups as a means for capturing qualitative information about specific groups of stakeholders, on specific proposals under consideration, or on public information products being developed.

6. **Conduct Program Update Meeting for Stakeholders.** Workshop participants recommended that public meetings involving program officials be conducted more frequently than is current practice. Additionally, participants recommended that thorough outreach efforts be conducted to solicit input from all sectors of the public, and that meetings be held in local communities, including those of Indian Nations, or

by teleconference. Another comment was made that the Department should undertake more coordination and integration of individual program components rather than continue to focus on particular initiatives one at a time.

**Next Step:**

The program will conduct a regular program Update Meeting for Stakeholders. The primary purpose of this meeting will be to present a comprehensive overview of upcoming activities, including those in which the program may enlist the public's predecisional involvement. This meeting will allow stakeholders to receive a unified picture of program activities and to speak directly with program officials about issues of concern. Although the specific meeting agenda will depend on current events, the meeting may cover such things as updates on all elements of the program, highlights of major milestones coming up over the next year, overviews of program decisions in which public input is expected to be solicited, and opportunities for open dialogue between program officials and stakeholders. To provide for the broadest involvement and to help defray stakeholder expense for attending an out-of-town meeting, the program will consider using satellite telecommunications with an interactive capability for this meeting.

*As an additional step to encourage public participation, the program recently clarified its policy regarding meetings; the policy states that with the fewest possible exceptions, program meetings are open to the public. (See Appendix B.)*

**Process Option Requiring Further Study**

**7. Study Option of Providing Community-Based Technical Assistance in Locales Affected by or Interested in the Program.**

Some participants expressed a need for locally-based technical assistance activities to enable communities to obtain neutral information about program issues. This type of assistance was perceived as beneficial for communities near the Yucca Mountain

characterization site and nuclear power plants (at which on-site storage is planned), at potential monitored retrievable storage sites, and on transportation routes. Some participants expressed distrust in the Department as a source of unbiased technical information. It was thought that sources such as community-based technical experts (for example, geologists or high-school science teachers) would be viewed with a higher degree of credibility. Local technical assistance was suggested as an inexpensive way to educate and communicate with communities that do not have affected status.

**Next Step:**

The program will develop this concept further by enlisting science teachers who are already knowledgeable and/or interested in the program as a result of the curriculum produced for the program by teachers in 1992. The program also will investigate how other Department programs and Federal agencies have handled local technical assistance activities. Following a thorough review of this activity, the program may develop an approach that could be used as a model, and then identify and work with a community in which the model could be piloted.

**Decisions to be Deferred**

8. **Advisory Committee.** Some workshop participants suggested that the Office of Civilian Radioactive Waste Management form an advisory committee as one means of obtaining stakeholder input into the program and building credibility into the program's decision-making process. On the other hand, concern also was expressed that advisory committees are too formal and exclusive. Both a Federal advisory committee and local citizens advisory groups were suggested.

**Next Step:**

The Office of Civilian Radioactive Waste Management will consider the formation of an advisory committee after the Secretary's review of the program is completed. If a

decision is made to develop this concept further, a draft proposal will be distributed for stakeholder review and comment.

9. **Independent Blue Ribbon Commission.** An independent Blue Ribbon Commission to conduct a comprehensive review of the program was suggested by a number of groups represented at the workshop. Some suggested that an independent review be conducted prior to any decisions being made to proceed with the program. Some said that the President should appoint such a group. Suggestions were made regarding individuals and agencies that could serve on the Commission; the need to study the issues for a year or more; the need to hold public hearings in a variety of states and communities; and ceasing all activity connected to opening a facility at Yucca Mountain, the Waste Isolation Pilot Plant, or a monitored retrievable storage facility until 180 days following the review's completion.

**Recommendation:**

The program recommends that no decision on a Blue Ribbon Commission be made until the Secretary's review of the program has been completed. The issue of an independent commission should be considered only if, after the review has been completed, there are outstanding issues that the Department is unable to address.

**Process Options Not to be Implemented**

After analyzing all the suggestions made during the workshop discussion, the program believes it would be inappropriate to implement two specific ideas that were presented.

1. **Conduct Public Opinion Polls.** Some participants suggested that the program conduct public opinion polls through toll-free telephone lines or mail-in surveys as a means for receiving public input on specific issues. Although public opinion polls can be an effective means of measuring public opinion and provide opportunities for more members of the public to voice their views, the program does not believe

conducting public opinion polls in this case would be an appropriate or effective use of its resources. Members of the public are encouraged to register their concerns through direct correspondence to the Secretary or Director, or on the program's toll-free information number (1-800-255-NWPA/6972). The program will continue to invite the public to submit comments through reader response cards published in every *OCRWM Bulletin*, the program's quarterly newsletter.

2. **Provide Financial Assistance for Members of the Public to Participate in Meetings.** A suggestion was made to provide financial assistance to members of the public who wish to participate in program meetings. The program believes it would be impractical in the exercise of responsible fiscal management to provide financial assistance to every member of the public who wants to participate in the program. We will, however, make a concerted effort to provide low-cost avenues for the public to interact with the program (such as conducting meetings through satellite videoconferences, holding meetings in areas where there is strong public interest, and other process options discussed in this report).

## **Appendix A**

### **ANALYSIS OF WORKSHOP SUGGESTIONS**

The following discussion analyzes the suggestions made by participants at the August 10, 1993, workshop conducted by the Office of Civilian Radioactive Waste Management (hereinafter referred to as the program). No consensus was reached on any one method for involving stakeholders in the program. The workshop suggestions have been grouped into nine process options:

1. **Criteria for Public Involvement**
2. **Review Process Similar to that of the Federal Energy Regulatory Commission and Described Under the Administrative Procedure Act**
3. **Office of Ombudsman**
4. **Neutral Party to Develop and Review Public Informational Materials**
5. **Focus Groups**
6. **Public Meetings**
7. **Community-based Technical Assistance in Locales Affected by or Interested in the Program**
8. **Advisory Committees**
9. **Independent Blue Ribbon Commission Review**

## **Option 1: Criteria for Public Involvement**

Workshop participants recommended that the program employ specific criteria as a first step in establishing a credible and effective public involvement process. The following list represents a synthesis of criteria suggested by the workshop's four breakout groups. Suggested criteria over which there was a clear divergence of opinion among workshop participants (eg., "Based on common goals, not forced siting" and "Placing decision-making authority in a given entity") were considered in this analysis but not included in the following list since the differences could not be reconciled.

- ***Open and Inclusive Participation.*** Participants generally agreed that any public involvement process should be open and inclusive to all stakeholders seeking involvement.
- ***Involve Public in Framing Issues.*** Participants believed the program should provide stakeholders with sufficient time and opportunities to help frame program issues as one means of obtaining pre-decisional input into the program's decision-making process.
- ***Accountable.*** Some participants suggested that the program should be held accountable to report, explain, and justify its decisions. Others said that the program should be responsible for explaining and implementing its decisions.
- ***Fair.*** All public involvement processes should be considered equitable by all stakeholders.
- ***Timely.*** Public involvement activities should be scheduled at a point at which stakeholders and the public can have a real impact on decisions.

- ***Tailored to the situations and decisions at hand.*** Participants believed that the program should use different public involvement approaches for local, regional, and national issues, and to reach disparate segments of the public.
  - ***Funding to Participate.*** Some participants believed that stakeholders should be provided with financial resources to enable their participation, such as travel expenses to attend meetings. Some participants believed it was unfair that some individuals were subsidized for their travel through cooperative agreements with the program, and others were not.
  - ***Department of Energy's Full Commitment.*** Participants believed that the program must demonstrate its commitment to public participation by being responsive, interactive, and open to modifying program decisions and plans based on public input.
  - ***Responsive to Indian Tribal Needs and Issues.*** Participants believed that the program should carefully consider Indian Tribal needs and concerns on program issues such as the siting of a monitored retrievable storage facility. Participants pointed out the special status and sovereignty of Indian Tribes.
  - ***Convenient Time and Location.*** Participants generally agreed that it was very important that all public meetings be as convenient to attend as possible. It was suggested that meetings be held at night or on weekends to accommodate stakeholders' work commitments. It also was suggested that meetings be held in easily accessible locations around the country .
- Pro:** By employing specific criteria, the program can work towards building credibility, equity, and consistency into its public involvement activities.

**Con:** Some stakeholders may prefer that criteria be tailored to a specific public involvement activity. With regard to the suggestion to provide financial resources to enable public participation, due to budgetary constraints it would be impractical as a guiding principle to provide financial assistance to every member of the public who wishes to participate in the program.

**Recommendation:**

Adopt the suggested criteria, to the maximum extent possible, as a basis for developing a draft program policy on public involvement and distribute the draft policy to all program stakeholders for review and comment. To address concerns about financial assistance, the program should consider using satellite telecommunications with an interactive capability for its public meetings to help defray stakeholder expense for participating in program activities.

**Option 2: Review Process Similar to that of the Federal Energy Regulatory Commission and Described Under the Administrative Procedure Act**

Participants suggested that the program adopt a review process that was alternately referred to as the "FERC-like process," for a process used by the Federal Energy Regulatory Commission, or the "APA process," which is described in the Administrative Procedure Act. Those participants making this suggestion acknowledged that this process may require modification when applied to the Office of Civilian Radioactive Waste Management.

Under the Administrative Procedure Act, with certain specified exceptions, a government agency that is undertaking a regulatory rulemaking must solicit input from the public. The public is notified that its input is being solicited through the agency's formal announcement in the Federal Register (generally under the title of "Notice of Proposed Rulemaking"). The public is afforded a prescribed period for submitting its comments. The agency is obligated to consider the public input, but is not required to adopt or modify proposed regulations before it issues a final rule.

The Federal Energy Regulatory Commission, which is an independent agency responsible for regulating natural gas, electric utilities, hydroelectric power and oil pipelines, was praised by some participants for its adaptation of the Administrative Procedure Act process for use in the period preceding the development of a rule for proposal. The Federal Energy Regulatory Commission solicits public input on various topics by publishing "Notices of Inquiry" in the Federal Register. Responses to the "Notice of Inquiry" serve as background information during the development of a rule. In addition, the Commission announces the availability of draft documents for public comment.

**Pro:** The Federal Energy Regulatory Commission review process is an open one and has been cited for providing consistency in its public involvement activities. It allows for a mechanism of challenge by interested parties. Public input into regulatory decisions is solicited early in the decision-making process, and the Commission has explicit rules for maintaining an administrative record of public input.

**Con:** The Federal Register, a key method of notification for this process, is not widely read by members of the public including those who may be affected by civilian radioactive waste management program activities. Critics of the Federal Energy Regulatory Commission process assert that its review process is overburdened by paperwork. The Commission's proceedings can take years to resolve. This process may be less effective and efficient than a standing advisory board as a means of tapping stakeholder views on issues requiring timely resolution.

**Recommendation:**

Although not required by the APA, it is recommended that the program adopt a more formal and consistent process for public input into decision-making, based on that used by the Federal Energy Regulatory Commission, while accommodating the needs and concerns of this particular program and its stakeholders. The process should include regularly scheduled public meetings with program officials and stakeholders, a mechanism for the public to introduce topics for discussion at these meetings, and an administrative record of the discussions.

The program should announce the availability of draft documents for public comment through Federal Register notices, news releases, direct mailings to key stakeholders, OCRWM Bulletin notices, and announcements on INFOLINK, the publicly accessible program database. Additionally, notices similar to the "Notices of Inquiry" should be published by the program in the Federal Register and all regular program publications to solicit public input on a series of questions related to program issues. The responses to the questions should be reviewed by the program and used to formulate options and proposals for future consideration and ultimate adoption. The program should respond to stakeholder answers and comments in follow-up notices that should air, as much as possible, all sides of the issue.

It also is recommended that the Criteria for Public Involvement (see Process Option 1) and the Review Process (Process Option 2) be integrated into a program policy and guidelines document, and released for public review and comment.

### **Option 3: Office of Ombudsman**

Workshop participants suggested that the Department of Energy establish an Office of Ombudsman to address and resolve concerns over policy, technical, or institutional issues between the program and its stakeholders. Another related suggestion was that an independent conflict-resolution process be initiated and implemented for resolving contentious issues. (For the purposes of this review, the program considered these suggestions in tandem because of the advantages of a conflict-resolution process being administered by an Office of Ombudsman.) Conflict resolution often is used in controversial programs when substantive disputes or conflicts arise. Some workshop participants recommended that the Ombudsman report directly to the Secretary.

**Pro:** An Ombudsman can establish a candid dialogue with program critics, an interaction that is sometimes precluded in public meetings in which organizational representatives usually are focussed on representing their constituents' concerns and positions.

A conflict-resolution process, conducted by an outside, neutral organization and administered through the Office of the Ombudsman could help increase public trust and confidence in the program. Through the Ombudsman's daily contacts with stakeholders, it will be more apparent which issues are candidates for employing a conflict-resolution process. Establishment of a conflict-resolution process could address and resolve conflicts before they become magnified by a highly visible public debate. An ombudsman function together with a conflict-resolution function have operated successfully in other federal agencies, including the Environmental Protection Agency and the Department of Health and Human Services. Conflict resolution also has been used successfully by Clean Sites, Inc., to determine desired levels of environmental remediation at Superfund sites.

**Con:** The Ombudsman must have clearly defined authority and responsibilities, adequate resources, and sustained top management support. An ineffectual Ombudsman office

would be more damaging to trust and confidence than none at all. With respect to a conflict-resolution process, stakeholders may not always be willing or able to subjugate some of their political position or authority to an independent, neutral third-party in such cases where compromises might have to be made.

**Recommendation:**

It is recommended that an Office of Ombudsman be established and have the authority to operate independently as a neutral conduit between the program and its stakeholders, and to enlist the support of program resources as required. The Ombudsman would have the authority to request that a conflict-resolution organization establish a process for resolving issues that appear to be in gridlock. The Ombudsman also would serve as a catalyst for modifying plans and activities when in the public interest. As a first step in establishing this office, the program should develop a position description and distribute it for public review and comment.

#### **Option 4: Neutral Party to Develop and Review Public Informational Materials**

Participants suggested that the program employ neutral means to develop and review informational materials that describe program activities and explain technical issues. This suggestion was intended as a way to obtain agreement on the basic facts so that the discussion with interested parties can focus less on arguments over the facts and more on the decisions to be made. Some participants stated that they did not trust government officials to develop objective and accurate informational materials. Participants supported the use of a neutral external group, such as the National League of Women Voters, to assist in drafting program materials.

**Pro:** Use of neutral parties to develop program materials would help counter accusations of bias and improve the credibility of program informational materials. For example, the National League of Women Voters has recently updated the Nuclear Waste Primer through a cooperative agreement with the program. The Primer is a publication that discusses general nuclear waste issues from a nontechnical standpoint. The program also can draw from the collaborative process used to develop and review the program's education curriculum on radioactive waste management.

**Con:** An investment of time and money would be required to implement this initiative. External reviewers would need to possess appropriate technical expertise and the ability to communicate technical concepts to a general audience. While practical with regard to a single, general-information product such as the Primer, using external parties to review all of the program's information products may prove cumbersome to coordinate due to sheer volume. Additionally, the program would need to determine how to reconcile differences of opinion among external reviewers.

#### **Recommendation:**

The program should continue to use cooperative agreement relationships to assist in creating public information materials. Neutral, external groups (such as the League of Women Voters or the National Conference of State Legislatures) should be enlisted

to review informational materials for accuracy and objectivity. These reviews could be accomplished using existing cooperative agreements. (When necessary, additional funds may be needed under an existing cooperative agreement.) The program also should pursue establishing other mechanisms, such as a publications review panel, to review information products prior to their release and to critique existing material for accuracy and objectivity.

An additional source of external review could involve asking school systems to review public information documents, an approach used effectively by the Department of Energy's Office of Environmental Restoration and Waste Management.

## **Option 5: Focus Groups**

Participants suggested that the program conduct focus groups as a means of understanding the perspectives and concerns of specific groups, such as local citizens' groups and Indian Tribes. Participants believed that focus groups could allow a unique perspective to emerge. Focus groups also were suggested as a method for reviewing and developing public information products. No specific guidance was given on how or when this option could be implemented.

Typically conducted by an external moderator who explores how people will react to specific proposals, a focus group could provide feedback on possible options prior to initiating an activity or reaching a decision. During a focus group, a moderator probes for concerns that may exist behind stated opinions. A focus group can provide unexpected insights and unanticipated reactions, a phenomenon known by researchers as "serendipitous findings."

**Pro:** Focus groups could be an effective mechanism for identifying stakeholder concerns unique to a particular group. A focus group offers a neutral environment in which participants can openly express their opinions without having to defend them or worry about speaking officially or in public. Information generated by a focus group discussion could be used by management to modify program plans.

**Con:** Although widely accepted as a market research tool, focus groups may be viewed by some as a way to manipulate decisions or outcomes. Stakeholders may not trust that the information would be used in a fair manner. Similarly, some may question the appropriateness of a Federal agency conducting opinion research. Focus groups are primarily one-way communication and not viewed as a means of dialogue between an organization and its constituents.

**Recommendation:**

**Conduct focus groups on a selective basis as a means for capturing qualitative information on either a specific group of stakeholders and/or on a specific proposal or public information product under consideration. For example, in conjunction with exploring the feasibility of a potential monitored retrievable storage host site, a focus group could be conducted with local citizens to get a better sense of the community or to get reactions to a proposed community relations plan.**

## **Option 6: Public Meetings**

Workshop participants recommended that public meetings involving program officials be conducted more frequently and be more accessible than is current practice. Additionally, participants recommended that thorough outreach efforts be conducted to solicit input from all sectors of the public, and that meetings be held in local communities, including those of Indian Nations, or by teleconference. Another comment was made that the Department should undertake more coordination and integration of individual program components rather than continue to focus on particular initiatives one at a time.

**Pro:** If conducted with a clearly defined purpose, public meetings can result in benefits to the program and its stakeholders. Such meetings provide the public with an opportunity to obtain program information first-hand from program officials and to express their concerns and ideas with the possibility of receiving immediate feedback. Public meetings allow some members of the public who otherwise would never provide input to the program to interact with program officials. Public meetings may improve understanding of stakeholders and members of the public, and may help to increase understanding by program officials of stakeholder concerns.

**Con:** Public meetings may attract large numbers of participants, which can make establishing two-way communication more challenging. The larger the attendance at public meetings, the fewer the topics that can be discussed meaningfully among those present and the less time available for individual participants to speak. Conducting public meetings is a time-intensive endeavor that may produce diminishing returns if the meetings do not generate any perceptible impact on the program's decision-making or future direction.

### **Recommendation:**

It is recommended that the program conduct periodic program update meetings with stakeholders to help provide a regular accounting and unified picture of program

activities. Although the meeting agenda would depend on current events, the meeting could cover such items as updates on all elements of the program, highlights of major milestones coming up over the next year, overviews of program decisions, including those in which public input may be solicited, and opportunities for open dialogue between program officials and stakeholders. This meeting would be an opportunity for stakeholders to see the "big picture" and would help to augment the program's issue-specific public meetings, such as Transportation Coordination Group meetings, public workshops on the multipurpose canister design, and Yucca Mountain Project Update Meetings.

### **Option 7: Community-Based Technical Assistance in Locales Affected by or Interested in the program**

Some participants expressed a need for locally-based technical assistance that would enable communities to obtain neutral information about program issues. This type of assistance was perceived as beneficial for communities located near the Yucca Mountain candidate site, near nuclear power plants (at which on-site storage is planned), at potential monitored retrievable storage sites, and on transportation routes. Some participants expressed their distrust in the Department as a source of unbiased technical information. They suggested that community-based technical experts would be viewed with a higher degree of credibility. Local technical assistance was suggested as a way to interact with communities that are not eligible for affected status.

**Pro:** Providing technical assistance at the local level may prove to be a cost-effective means of informing the public and establishing a service-oriented reputation within a community. Local technical assistance activities could help focus attention on program issues, and mitigate the lack of trust in the Federal Government.

**Con:** Workshop participants were not specific regarding what local technical assistance would involve; the concept will require further development. A potential risk is that inaccurate or incomplete information may be disseminated.

#### **Recommendation:**

Develop this concept further by enlisting community-based technical experts. The program also should investigate how other Department of Energy programs and Federal agencies have handled local technical assistance activities. Following a thorough review of this activity, the program should develop an approach that could be used as a model. The final step would then be to identify a community in which the model could be piloted and work with the community to implement the program.

An alternative or supplemental approach would be to provide additional local technical assistance through programs such as the League of Women Voters' training programs on the Nuclear Waste Primer, special exhibits at local libraries, and through universities and local school systems. Although attention has been given to school systems in Nevada, additional emphasis could be placed on reactor communities and potential monitored retrievable storage sites.

## **Option 8: Formal Advisory Committees**

Advisory committees were suggested by some workshop participants as one means of obtaining stakeholder input. A Federal advisory committee was supported by some who cited it as a means to ensure public involvement and program accountability; others supported the idea of forming local citizen advisory groups to advise the Department.

**Pro:** A formal advisory committee that complies with the requirements of the Federal Advisory Committee Act would demonstrate a serious program commitment to involve stakeholders in the program's decision-making process. An advisory committee could offer consistency and continuity over time; addressing concerns sequentially with the same group of people could offer genuine progress for resolving some of the program's thornier issues. An advisory committee also could be a mechanism for forging bonds and compromises between diverse constituents. Under the Federal Advisory Committee Act, advisory committee membership must be balanced, committee meetings must be open, and meeting records must be made available, upon request -- requirements that would address workshop participants' desire for accountability and inclusivity.

**Con:** All federal advisory groups that include non-Federal members must comply with the Federal Advisory Committee Act, which requires a sometimes lengthy process of approval by the General Services Administration and with Executive Order 12838, which requires approval by the Office of Management and Budget. It could take several months to initiate and additional resources to administer. Organizing an advisory committee may appear to contradict the public involvement criterion suggested by workshop participants for inclusivity. Even though membership must be balanced, meetings must be open to the public unless an exception is granted by the Secretary, and the public would be free to comment on group deliberations, membership in the group would not be open-ended, and, in this sense, the use of an advisory committee may be viewed as restricting participation. Advisory committees

tend to move slowly; committee recommendations would not be available any time soon. Committee deliberations may slow down a program that has been criticized heavily for schedule slippages.

**Recommendation:**

It is recommended that the decision to establish a Federal advisory committee be deferred until the Secretary of Energy completes her review of the program. If a decision is made to develop this concept further, a draft proposal should be distributed externally for stakeholder review and comment.

With regard to establishing a local advisory group, the program's Yucca Mountain Project has initiated ongoing organized interactions with designated affected counties, the State of Nevada, and organizations in Nevada interested in the program. This activity, initiated in the summer of 1993, is designed to provide a regular forum in which the affected units of local government and the Project Office can share information and discuss issues of concern, such as site suitability, thermal loading, and budget formulation. The meetings are held bimonthly and are open to the public. The program believes that this initiative may achieve, in part, the results desired by the workshop participants who suggested that a local advisory group be established.

## **Option 9: Independent Blue Ribbon Commission**

An independent Blue Ribbon Commission to review the program was recommended by a number of groups represented at the workshop. Some said that the President, the White House Science Advisor, or the Vice President should appoint such a group. Suggestions were made regarding individuals and agencies that could serve on the Commission; the scope of the issues to be studied; the need to study the issues for a year or more; the need to hold public hearings in a variety of states and communities; and ceasing all activity connected to opening a facility at Yucca Mountain, the Waste Isolation Pilot Plant, and a monitored retrievable storage facility for 180 days following the review's completion.

**Pro:** A Blue Ribbon Commission can be an effective tool to evaluate programs and decisions of national importance. A request by the Secretary of Energy for a Blue Ribbon Commission to review the nation's nuclear waste program could symbolize the Department's willingness to have an external entity take a hard look at the program.

**Con:** The Secretary of Energy has ordered a multi-faceted review of the program whose components include: (1) an independent financial and management review of the Yucca Mountain Project; (2) consultations with the wide range of stakeholders interested in the program; and (3) an independent examination of all responsible comments made of the program during the last five years. Until the Secretary has been given the opportunity to review the program, it would be premature to ask that a Blue Ribbon Commission be established.

### **Recommendation:**

No decision on a Blue Ribbon Commission should be made until the Secretary's review of the program has been completed. The issue of an independent commission should be considered only if, after the review has been completed, there are outstanding issues that the Department is unable to address.

# memorandum

APPENDIX B

DATE: OCT 8 - 1993

REPLY TO  
ATTN OF: RW-1

SUBJECT: Policy on Attendance by External Parties at OCRWM Meetings

TO: OCRWM Staff

In response to Secretary Hazel O'Leary's mandate to broaden the involvement of stakeholders and other interested parties in our decision-making processes, the Office of Civilian Radioactive Waste Management has clarified its policy regarding attendance by external parties at OCRWM-sponsored meetings. The purpose of this policy is to provide stakeholders with the earliest possible access to planning and decision-making activities affecting their interest.

In general, all OCRWM-sponsored meetings, with the exception of staff meetings or those involving proprietary information, will be open to the public. Such meetings generally fall into one of two categories:

## A. OCRWM Program Meetings

Program meetings are those regular, recurring, or designated meetings necessary to conduct the mandated or assigned functions of the radioactive waste management program. These meetings are open for public attendance. External parties in most instances will be attending in order to observe the meeting and maintain a current awareness of on-going activities as they evolve. In general, these meetings will have time allotted on the agenda for public comment. Executive sessions limited to the Department of Energy and associated contractor staff may be held, if needed, to discuss pre-decisional matters or sensitive issues such as proprietary data, contractual or personnel matters, or budgets.

**Examples.** Examples of OCRWM program meetings are the bimonthly Director's Program Review and the Program Management Review (M&O) meetings. The Yucca Mountain Project's Technical Project Officer Meetings and Exploratory Studies Facility Design Review Meetings traditionally have been open for public attendance, and this policy will continue.

**Notification.** Notice of upcoming program meetings will be provided monthly to external parties through the *OCRWM Calendar*. The *Calendar* will list meetings related to the radioactive waste management program for the next four months and will include the location and a contact name for further information on each meeting. Meetings open to the public will be indicated by an "O." After receiving two or three *Calendars*, external parties will be surveyed as to their interest in continuing to receive the monthly calendar.

Since dates and locations of meetings may change after the *Calendar* is published, external parties will be encouraged to double-check meeting information by calling the OCRWM Information Center's toll-free number

((800) 225-6972; (202) 488-5513 in the Washington, DC area) or by accessing INFOLINK, OCRWM's computerized database. If meetings must be rescheduled, the responsible OCRWM office arranging the meeting will notify the Information Center of these changes. Every effort will be made to provide notice of cancellations or changes in meeting dates sufficiently in advance to enable out-of-town attendees to adjust travel plans.

## **B. Public Participation Meetings**

Public participation meetings are sponsored by the Office of Civilian Radioactive Waste Management to disseminate information to and receive input from a broad spectrum of external parties. Public comment periods normally will be afforded to those attending these meetings. Notice to program stakeholders and interested parties about public participation meetings should be as extensive as possible. Attendance should not be limited to selected individuals or groups.

**Examples.** Examples of the above type of meetings are the multipurpose canister workshops, Transportation Coordination Group meetings, Section 803 Report meetings, and the Yucca Mountain Project Public Update meetings.

**Notification.** Notice to the public about these meetings should take place a minimum of 30 days in advance. An announcement of the meeting should be placed in the *Federal Register*. To extend notice of the upcoming meeting to as many stakeholders and interested parties as possible, one or more of the following should be used:

- *OCRWM Calendar*
- Letters of invitation
- Paid advertisements in trade and/or local press
- News releases

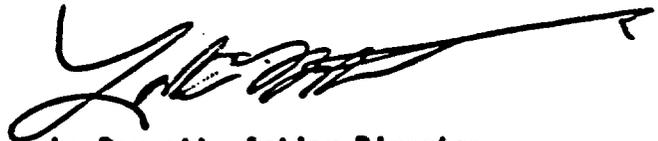
As mentioned previously, the *OCRWM Calendar* will be provided monthly to external parties. The *Calendar* listing for public participation meetings will include the location and a contact for further information. Public participation meetings will be indicated on the *Calendar* by a "P."

A master mailing list of OCRWM stakeholders, including telephone numbers, of external parties who should be invited to public participation meetings is available from the Education and Information Division. The list, which will be updated routinely, is available on a diskette that can be used to print letters and mailing labels. Depending on the topic of the meeting, the organizing office within OCRWM may notify additional persons with particular interest in the subject.

Announcements in the trade and/or local press through paid advertisements and news releases announcing the meetings are encouraged where appropriate and should be coordinated within the Department.

In conclusion, a good rule of thumb to keep in mind in determining whether a meeting will be open to external parties is this: We are conducting the public business, therefore, it will be done in an open and public manner unless a compelling reason exists to limit attendance.

I expect all OCRWM personnel and contractor support staff to fully support these principles and assume personal responsibility for their implementation within your areas of responsibility.



Lake Barrett, Acting Director  
Office of Civilian Radioactive  
Waste Management

cc: D. Dreyfus, S-1  
R. Robertson, M&O  
L. Snow, WESTON  
T. Hill, SAIC