



Department of Energy

Washington, DC 20585

August 4, 1993

Mr. Jim Holonich  
U.S. Nuclear Regulatory Commission  
Mail Stop 4H-3  
Washington, DC 20555-0001

Dear Mr. Holonich:

We have enclosed the following material to help you prepare for the August 10, 1993, public involvement workshop: (1) a revised agenda, (2) a backgrounder on public participation options, and (3) Topic I and Topic II discussion papers.

The purpose of the workshop is to develop and recommend a consultative process that will provide external parties meaningful opportunities to participate in the civilian radioactive waste management program's direction and decision-making. To facilitate discussion, participants will be divided into working groups to address two major topics for which we want to develop processes for public involvement - waste acceptance and storage, and repository program strategies.

As a reminder, the meeting will be held from 8 a.m. - 5 p.m., followed by a public meeting from 7 - 9 p.m. in the Board Room, Thomas & Mack Center, Tropicana & Swenson Street, University of Nevada, Las Vegas.

If you have any questions or comments about the workshop, contact Allen Benson, Director, Program Relations Division, Office of Civilian Radioactive Waste Management, at (202) 586-2280; or Patty Reyes, Roy F. Weston, Inc., at (202) 646-6668.

Comfortable dress is appropriate. We look forward to a productive session.

Sincerely,

Lake H. Barrett, Acting Director  
Office of Civilian Radioactive  
Waste Management

Enclosures

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## REVISED AGENDA

Workshop on Developing a Consultative Process  
Sponsored by U.S. Department of Energy  
Office of Civilian Radioactive Waste Management

August 10, 1993

Thomas & Mack Center  
Tropicana & Swenson Street  
University of Nevada, Las Vegas

***Purpose of Workshop:** In conjunction with the Secretary's review of the civilian radioactive waste management program, the purpose of this workshop is to develop and recommend a consultative process that will provide external parties meaningful opportunities to participate in the program's direction and decision-making.*

8:00 - 8:30 am	Registration and Coffee Reception	The Board Room
8:30 - 8:45 am	Welcome and Workshop Objectives Lake H. Barrett, Acting Director, OCRWM	
8:45 - 9:00 am	Overview of Workshop Process Facilitator	
9:00 - 9:30 am	Prepared Stakeholder Comments	
9:30 - 9:45 am	Draft Public Involvement Process Options Allen B. Benson, Director, Program Relations Division, OCRWM	
9:45 - 10:15 am	Facilitated Discussion Period on Process Options	
10:15 - 10:30 am	Break (During break, teams assemble in designated rooms to begin break-out sessions.)	Yellow Group - Room A Green Group - Room B Blue Group - Room C Red Group - Room D
10:30 - 12 Noon	Topic I - Public Involvement Process for Waste Acceptance and Storage Issues	
12 Noon - 1:30 pm	Lunch (on own)	
1:30 - 3:00 pm	Topic II - Public Involvement Process for Repository Program Strategy Issues	
3:00 - 3:15 pm	Break	
3:15 - 3:45 pm	Preparation of Break-out Session Summaries	
3:45 - 4:45 pm	Presentation of Break-out Session Summaries Facilitator	The Board Room
4:45 - 5:00 pm	Next Steps / Wrap-up Facilitator / Lake H. Barrett	
5:00 - 7:00 pm	Dinner (on own)	

**REVISED AGENDA (CONTINUED)**

**Workshop on Developing a Consultative Process  
Sponsored by U.S. Department of Energy  
Office of Civilian Radioactive Waste Management**

**August 10, 1993**

**Board Room, Thomas & Mack Center  
Tropicana & Swenson Street  
University of Nevada, Las Vegas**

***Purpose of Evening Meeting: Update public on results of day-long workshop and receive public comment on consultative process recommendations.***

<b>7:00 - 7:15 pm</b>	<b>Welcome/Review of Discussion on OCRWM Public Involvement Process Facilitator/Lake H. Barrett</b>
<b>7:15 - 8:45 pm</b>	<b>Open Forum - Facilitated Discussion</b>
<b>8:45 - 9:00 pm</b>	<b>Closing Comments Facilitator/Lake H. Barrett</b>

**OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT**  
**PUBLIC PARTICIPATION PROCESS OPTIONS**

**Backgrounder**

**Workshop to Develop a Consultative Process**  
**August, 10, 1993, Las Vegas, Nevada**

**OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT  
PUBLIC PARTICIPATION PROCESS OPTIONS**

**Backgrounder**

**INTRODUCTION**

This backgrounder has been developed as a discussion aid for workshop participants to use as they evaluate public involvement process options during the break-out sessions. The following questions are offered as assistance in considering the possible process approaches on a given issue or policy question. Break-out groups may decide to use these questions in their discussion or suggest others as appropriate.

**Possible Planning Considerations**

1. Is the issue correctly identified?
2. Is the issue of sufficient interest to the public to justify decisionmaking participation?
3. What segments of the public want to be or should be involved?
4. At what point(s) in the predecisional process should public participation occur?
5. How should the public participation be structured? Participation process options, generally not mutually exclusive, may include the following:
  - Committees Formed Under Federal Advisory Committee Act (page 2)
  - Standing Coordination Groups (page 2)
  - Conflict Resolution Processes (page 2)
  - Independent Reviews (page 3)
  - Public Hearings (page 3)
  - Public Meetings (page 3)
  - Ad Hoc Stakeholder/Public Meetings on Specific Issues (page 3)
  - Predecisional Drafts (page 4)
  - Cooperative Agreements (page 4)
  - Frameworks for Interaction/Protocols (page 4)
  - Informal Consultations and Interactions (page 4)

Additional background information on each of the preceding process options is provided on the following pages as noted.

## **PUBLIC PARTICIPATION PROCESS OPTIONS**

### **☐ Committees Formed Under Federal Advisory Committee Act**

A Federal Advisory Committee is a committee established under the provisions of the Federal Advisory Committee Act of 1977. The Act states that formal federal advisory committees be established if they seek advice or recommendations for the President or one or more federal agencies and that they not be composed wholly of full-time federal employees. Among the requirements of the Act are: (1) new advisory committees can only be established after public notice and upon determination that establishment is in the public interest; (2) each advisory committee must have a clearly defined purpose and its membership must be balanced in terms of the points of view represented and the functions to be performed; (3) the status of and need for each committee is subject to periodic review; and (4) all advisory committee meetings must be open to public observation.

### **☐ Standing Coordination Groups**

A standing coordination group is similar to a formal advisory committee but does not fall under the requirements of the Federal Advisory Committee Act. The group may be selected and managed by the Department and will typically meet on a specific topic until all the issues are resolved. Consensus is not the purpose of the group; the purpose is to provide input to the decisionmaking agency on a specific issue.

### **☐ Conflict Resolution Processes**

A process involving negotiation and mediation -- or conflict resolution -- can be defined as the inclusion of a neutral non-adversarial third party facilitator or negotiator to help diverse parties reach a mutually acceptable agreement. Negotiation and mediation have often been successful in resolving complex, multiparty disputes in the Federal government. Conflict resolution attempts to build a consensus that all parties can accept. Through this process, during which an attempt is made to strengthen the communication skills of all stakeholders in a dispute, stakeholders are given the opportunity to understand one another's concerns and address the differences together.

☉ **Independent Reviews**

Independent reviews may be defined as an investigation and report by an outside expert or organization for the purpose of evaluating an overall program, a specific program component, or a specific issue. Reviews may be conducted by a governmental or quasi-governmental agency (such as the General Accounting Office or the National Academy of Sciences), a private-sector entity (such as a management consulting firm), or a knowledgeable expert in the field. Reviews are typically requested by Congressional committees or members, program critics, or by a Federal agency, itself.

☉ **Public Hearings**

Public hearings are traditional, formal meetings typically mandated by law. They are conducted by the decisionmaking agency, announced in the Federal Register, and open to the general public. They are intended to provide an opportunity for public comment and testimony on proposed policies and actions. Testimony received during the hearing usually becomes part of the public record.

☉ **Public Meetings**

These are meetings intended primarily for the general public, as opposed to meetings targeted to specific groups of stakeholders. Experts are available to present information and answer questions, and citizens may ask questions and offer comments. Unlike the public hearing, public meetings are not legally mandated and a formal public record may not be kept. Often the meetings are organized with question-and-answer sessions or with sessions that provide opportunity for dialogue between the decisionmaking agency and the public. Public meetings are held to inform citizens of ongoing activities and to discuss and receive citizen feedback on proposed courses of action.

☉ **Ad Hoc Stakeholder/Public Meetings on Specific Issues**

These are invitational meetings for selected stakeholders and interested parties, which are held to seek input on a specific case or issue as the need arises. Parties invited depend on the specific issue addressed. Experts are available to present information and answer questions, and there are opportunities on the agenda for the general public

to ask questions and offer comments. These ad hoc meetings may be open to the public for observation.

☐ **Predecisional Drafts**

Predecisional drafts are distributed to the public to provide them with an opportunity for written public comment. The predecisional drafts are typically documents that present research findings or summarize current or proposed activities. Availability of the drafts is usually announced in the Federal Register, with a specified deadline for submitting written comments.

☐ **Cooperative Agreements**

Cooperative agreements are properly executed, legally binding compacts between two or more parties that establish the monies to be awarded for the completion of one or more specific tasks within a specified time period. These agreements foster and support the participation and input of external parties.

☐ **Frameworks for Interaction/Protocols**

Frameworks for interaction and protocols are formal guidelines which outline an overall interaction/participation program among the parties to the agreement.

Protocols are developed through negotiations among all parties involved.

☐ **Informal Consultations and Interactions**

Informal consultations and interactions typically occur through informal meetings or telephone conversations with one or a small group of stakeholders, to inform them of new developments, answer questions, or seek advice and opinions. Either the agency or the stakeholders may be the initiating party.

## **OCRWM WORKSHOP ON DEVELOPING A CONSULTATIVE PROCESS**

### **Topic I for the Breakout Session: Waste Acceptance and Storage**

#### **Introduction**

This facilitated breakout session will focus on developing process recommendations for involving key stakeholders and the general public in addressing topics related to waste acceptance and storage. The discussion that follows broadly defines the topic and provides contextual background information to help prepare participants in discussing options for the public involvement process. The breakout session will begin by determining whether the topic has been adequately defined and will then address key components necessary for developing a public participation process for the topic.

**Topic for discussion:** What process should be used for providing stakeholders and members of the public meaningful opportunities to participate in decisions related to waste acceptance and storage?

Major decisions that will need to be made by the Secretary of Energy include the following:

- Should the Department continue efforts to provide temporary storage away from reactor sites, and should such storage be provided at a volunteer site, at a site selected by the Department, or at a Federal facility?
- Or should the spent fuel be left at reactor sites until a geologic repository for permanent disposal is available?
- And if the second option is preferable, should the utilities be compensated for at-reactor storage?

#### **Background**

The Nuclear Waste Policy Act (Section 302(a)(5)) states: *Contracts entered into under this section shall provide that — (A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and (B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.*

A delay in the repository schedule was announced in June 1987, in an amendment to the Department's Mission Plan. In this amendment the Department also stated that waste

acceptance could begin in 1998 at an MRS facility. Subsequently, in the 1987 Nuclear Waste Policy Amendments Act, the Congress authorized the Department to site, construct, and operate an MRS facility subject to specific conditions and specified that a dual approach to siting this facility could be followed. One option was to look for a volunteer site through the efforts of a Nuclear Waste Negotiator. In this approach a State or an Indian Tribe could volunteer to host an MRS facility in exchange for benefits stipulated by the Congress. In the second approach, a site would be selected through a process, directed by the Department, of identifying and evaluating potential sites.

In considering the addition of an MRS facility to the Federal waste-management system, the Department identified a number of advantages. Instead of continued storage at many reactor sites, an MRS facility would allow a significant quantity of spent fuel (up to 15,000 metric tons) to be stored at a facility specifically designed for that purpose and licensed by the Nuclear Regulatory Commission. Once a repository opens, an MRS facility would serve as a staging facility for transportation, which means that spent fuel would be shipped to an MRS site by truck or rail and from there loaded onto trains for transport to a repository. Operating conditions would be imposed to ensure that the storage would be temporary and the facility would not become a de facto repository. The Department continues to focus its efforts and resources on repository site suitability.

Current schedules call for a repository to open in 2010 (and many view that date as overly optimistic). The Department had hoped that a volunteer host for an MRS facility would be found through the Nuclear Waste Negotiator, whose office was created by the Congress in 1987. However, no MRS site has yet been identified. As an alternative to voluntary siting, the Department has the option to conduct their own siting process, which may include the use of federal facilities.

By 1998 more than 25 reactors are expected to face shortages in the capacity of the pools they use for storing spent fuel. However, dry storage can be provided at reactor sites, and the Nuclear Regulatory Commission has stated that such storage would be safe for decades.

Some have even suggested that the Department should provide, or be responsible for, such storage at reactor sites and accept ownership of the spent fuel.

The Department continues supporting efforts to find a volunteer host for an MRS facility. The Department is also evaluating the development and use of multipurpose canisters that could be used, with appropriate overpacks, for storage at reactors or Federal sites, transportation, and disposal in a repository.

## **OCRWM WORKSHOP ON DEVELOPING A CONSULTATIVE PROCESS**

### **Topic II for Breakout Session: Strategy for the Repository Program**

#### **Introduction**

This facilitated breakout session will focus on developing process recommendations for involving key stakeholders and the general public in addressing issues related to the strategy for the repository program. The discussion that follows broadly defines the topic and provides contextual background information to help prepare participants in discussing process options. The breakout session will begin by determining whether the topic has been adequately defined and will then address key components necessary for developing a public participation process for the topic.

**Topic for discussion:** What process should be used for providing stakeholders and members of the public meaningful opportunities to participate in decisions related to a review of the current program strategy and determining whether a different strategy is needed?

#### **Background**

The Department is conducting scientific and technical studies in an effort to characterize the Yucca Mountain candidate site in Nevada; the purpose is to determine whether the site is suitable for a geologic repository. The site-characterization program, including extensive excavation and testing underground, will take several years.

If at the end of characterization the site is found to be suitable, the Department will hold public hearings to inform the citizens of Nevada that the Yucca Mountain site is to be recommended for development as a repository. The Department will then inform the Governor and the legislature of Nevada of its intent to recommend the site and submit the recommendation to the President. The Department is to include the views and comments of the Governor and the legislature of Nevada and the Department's responses. If the President approves, he or she will recommend the site to the Congress. At this point, the Governor and the legislature of Nevada have 60 days to submit a notice of disapproval. A notice of disapproval can be overridden only by a joint resolution of "repository siting approval" by the Congress.

Within 90 days of site designation, the Department is required to submit to the Nuclear Regulatory Commission (NRC) a license application that will include, among other things, detailed data about the characteristics of the site, the designs of the repository and the waste package (that is, the waste and the container in which the waste is packaged for disposal), and the results of performance assessment showing how the natural barriers (the site) and the engineered barriers (the repository and the waste package) work together to provide the

required isolation and long-term safety. The Department will have to provide reasonable assurance that the standards and regulations issued for the repository by the Environmental Protection Agency and the NRC will be met. Included in the regulations is the requirement that the principal engineered barrier, the waste package, is to provide substantially complete containment of radionuclides for 300 to 1000 years and radionuclide releases thereafter are not to exceed specified limits.

If the NRC approves the license application, it will issue a construction authorization for the repository, and construction will begin. Both surface facilities for receiving the waste and the underground repository for disposal will be constructed, but during this entire construction period, estimated to last 5 years, scientific studies and tests will continue. When the repository facilities are ready, the Department will request the NRC to issue a license to receive and possess waste at the site. No waste can be emplaced in the repository until this license is received.

The current plan is directed at receiving a construction authorization from the NRC, building the repository, and starting to emplace significant quantities of waste as soon as the NRC issues a license to receive and possess waste. However, obtaining the construction authorization for a first-of-a-kind facility that must provide waste isolation for thousands of years will be an unprecedented task. This task will be complicated by the uncertainties associated with both the engineered and natural barriers that can be expected to remain even after years of collecting information about the site.

Over the years various suggestions have been made about alternative approaches to licensing and repository development. This issue has been recently examined by a task force that prepared a report on alternative licensing strategies (the report is currently being circulated for public comment). The proposed alternative approach is typical of that used in developing new large-scale technologies—namely, phased development and licensing. The first objective in this approach is to demonstrate that a repository would provide the required waste isolation. Small-scale facilities could then be constructed for emplacing limiting quantities of waste, with the construction of full-scale facilities deferred until the design can be evaluated against the experience gained. The scale-up period could last for years and could be negotiated with affected parties. Another option would be to license a repository for long-term storage, with the waste remaining fully retrievable.