



REMARKS BY

BEN C. RUSCHE
DIRECTOR
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT
UNITED STATES DEPARTMENT OF ENERGY

BEFORE THE

1984 ANNUAL CONFERENCE
OF THE
ATOMIC INDUSTRIAL FORUM

WASHINGTON HILTON HOTEL
WASHINGTON, D. C.

NOVEMBER 12, 1984

*Discussed by
JOHN Gervers*

8412050272 841115
PDR WASTE
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MANAGING THE U.S. NUCLEAR WASTE PROGRAM

I appreciate the opportunity to be here today at the Annual Conference of the Atomic Industrial Forum. It is particularly a pleasure to appear before you so close to the second anniversary of passage of probably the most interactive legislation the Nation has ever had -- the Nuclear Waste Policy Act of 1982.

The Nuclear Waste Policy Act provides the most comprehensive framework this Nation has ever had for solving the nuclear waste problem. Two years ago December 20th, the Congress, representing the bipartisan views of many and in the spirit of compromise and consensus, made the choice of how, when, by what means and through what process this Nation will dispose of spent nuclear fuel and high-level waste.

Management of nuclear waste is important and critical to all nations with a nuclear power capability. The efforts in some countries are presently limited to research, and in other countries, the technology is being developed for either long-term storage or permanent disposal.

As for the United States, we have chosen geologic disposal as the preferred method for permanent disposal of such waste and we have embarked upon a program that will put an integrated waste disposal system into operation by 1998.

Global Responsibilities

The United States is a major player in the world energy arena and a leader in nuclear waste management as well.

I have just recently spoken to a group of international participants in a fuel cycle conference in Florence, Italy. It became crystal clear that the role of waste management is viewed by these participants as critical to assuring the integrity of the nuclear cycle.

International collaboration in R&D is an important element in achieving assurance of integrity of the fuel cycle for all international participants. Through the Nuclear Energy Agency, the International Atomic Energy Agency, the International Energy Agency and other organizations, we are participating in numerous technical exchanges and research projects in nuclear waste management; and we plan to continue those valuable efforts.

We all have a great deal at stake in preserving the effectiveness of these institutions for addressing critical issues, such as nuclear waste management.

By the passage of the Nuclear Waste Policy Act of 1982, and the subsequent activities to implement the Act, America has placed its program to dispose of nuclear waste safely on a firm and predictable course. By enactment of the Nuclear Waste Policy Act, we have moved further than any other nation toward final disposition of waste in geologic media. I believe this is a clear signal to the rest of the world that the job can be done with confidence.

The NRC also has confirmed this view through issuance of the final decision from the Waste Confidence Proceeding, expressing a similar conclusion of confidence.

We believe that international collaboration in many areas of energy research and development could increase efficiency by reducing redundancy and accelerating the pace of technology development. To this end, the Department of Energy is reviewing its international programs to secure maximum value from these collaborative efforts.

Collaboration, as we define it, includes early joint planning, so that the research programs of the collaborating countries would be more closely coordinated and increasingly interdependent with respect to mutually-shared objectives and results.

As a first step in the process of launching the Secretary's new international initiative, the United States Department of Energy is examining its energy R & D relationship with its major international partners and exploring their receptiveness to deepening bilateral and/or multilateral ties through collaboration.

Based upon the Nuclear Waste Policy Act, we have made offers to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal. We announced this offer jointly with the Nuclear Regulatory Commission in March of 1983 and again in April of 1984.

We are prepared to engage in information exchange and other forms of cooperation in connection with the disposal of spent fuel and high-level waste. However, there is no need to limit our efforts to information exchange. We also are prepared to work together on joint projects where it is mutually beneficial.

Many countries now look to nuclear power for a significant portion of their total electricity generation. With the growing importance of nuclear power generation in the world, it is essential that the U.S and other nations put in place effective waste disposal systems.

Waste Disposal System

The Nuclear Waste Policy Act has put America in a position of knowing where it wants to go and how it is going to get there. Further, it reflects something unlike anything we in the United States have ever done in terms of a solution to a contentious national problem by specifying how and when we will solve that problem. The Act made the choice with regard to five major factors:

1. The Congress decided that geologic repositories are the right long-term course for high-level radioactive waste disposal in the United States as the keystone of an integrated waste disposal system.

2. It established a schedule -- the time by which it ought to be done -- in the national interest.

3. It defined an arrangement, or set of provisions, by which the many constituents -- the States, affected Indian tribes, the American people in general, the utilities and the nuclear industry and other industries, such as the transportation industry -- can interact with the Federal Government to achieve the long-term disposal goals and to ensure that all their interests are considered.

4. It established a means of resolving a dispute, should one arise, between the States ~~or Indian Tribes~~ which is selected to host a repository and the Department of Energy which must carry out the law. And,

5. It established a system for financing disposal through revenues paid by the owners and generators of the waste.

These five factors are the essential elements in a Nation's ability to effectively manage and dispose of its nuclear waste. Congress, in passing the Nuclear Waste Policy Act, has provided a firm foundation upon which we can act.

A major objective of the Act is for the Federal Government to establish a functional waste management system so that we may begin accepting spent fuel or high-level waste for disposal by 1998. While there are numerous intermediate dates and key milestones laid out in the Act to help us achieve timely success. I am committed to 1998 as the most important date.

Although permanent disposal in a geologic repository is, and will continue to be, the ultimate objective of our program, it has become clear that the total waste management process requires an integrated systems approach. Such an approach needs to span functions from acceptance of spent fuel from the various utility storage pools to final disposal in a geologic repository.

It is important to optimize this waste system to the extent practical in terms of safety, cost-effectiveness and schedule, taking into account transportation, packaging, system reliability, overall costs and the logistics and interface problems associated with serving over a hundred different "customers". We are tentatively concluding that certain functions, such as packaging, handling and lag storage, should be carried out at locations other than the repository in a way that would increase our ability to achieve the safety and environmental objectives on the mandated target repository schedule in a cost-effective manner.

Under this concept, a Monitored Retrievable Storage capability, which the Act requires us to consider, would become an integral part of -- or subsystem of -- the waste disposal system. The other principal subsystems would be transportation and the repository. Let me now share with you our present thinking on -- and the status of -- each of these subsystems.

Monitored Retrievable Storage

In evaluating possible MRS roles, several factors are being considered. First and foremost is the need for a practical operating system of high reliability and predictability consistent with guidance provided in the Nuclear Waste Policy Act of 1982. Congress, through the Act, directed a "detailed study of the need for and feasibility of" the construction of one or more MRS facilities and directed that the Secretary propose a "plan for integrating [these facilities with] other storage and disposal facilities."

We do not consider MRS a substitute for final disposal. Neither is it being considered as an alternative for solving utilities' short-term interim storage problems. The Act indicates that those "owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel." We interpret the term "interim" as meaning prior to Federal acceptance of spent fuel for disposal beginning when the Federal waste management system becomes operational.

In the draft Mission Plan, which we issued last spring, the MRS was described as a backup to the repository in the event of major delays. We continue to believe this to be an appropriate role for an MRS facility, but we have also concluded that this may not be the only appropriate role for an MRS. There are other integrated system functions that are being evaluated, particularly those functions of the total Federal waste management system that can or should take place away from the repository.

We expect to arrive at tentative conclusions regarding our proposed role for the MRS in the next few months when the MRS need, feasibility and integration studies will be nearing completion. At that time, we will be prepared to discuss preliminary findings regarding services and functions which an MRS facility could provide. Subsequently, we plan to submit to Congress the resulting MRS proposal.

My views on MRS as part of an integrated system are not driven by what might be perceived by others as a lack of progress to date on geological repositories. In fact, I believe remarkable progress has been made in repository development, especially since enactment of the Nuclear Waste Policy Act. I have yet to discern any insurmountable technical obstacles to establishment of a repository and I believe the institutional obstacles can each be overcome with time, openness, high technical standards of performance and a commitment to ensuring public safety and protecting the environment.

I believe that an integrated disposal system that includes geologic repositories, MRS, and the necessary transportation systems and infrastructure will likely provide the best means for achieving the objective of safe, environmentally acceptable disposal in a cost-effective manner and on a reliable schedule. It is operational pragmatism and the opportunity to optimize and minimize transportation impacts that dominate my views. Schedule predictability is a valuable adjunct but not the driving force.

Transportation

Under the provisions of the Act, the Federal Government will manage transportation of spent fuel from the powerplant gate to the repository. The Act presumes that to the extent possible, we will rely on private carriers, although transportation will remain under Federal Government control. Legal title will pass at the powerplant gate from the utility to DOE to assure full tracking, and to assure that Federal laws and Federal controls are fully maintained. And the transportation will be financed by user fees.

Clearly, the transportation of spent fuel will be of concern to the many affected States. Transportation requires attention from the standpoint of strategy and logistics and to minimize risks in a cost-effective approach. We have already considerably stepped up our efforts to work with concerned states.

The Department seeks (1) to identify industry interests in participating with the Department to establish and operate the waste transportation system, and (2) to identify and address State, local and tribal concerns in development of specific strategies and action plans.

It is essential that we have strong private sector input. We will in the next few days issue for comment a preliminary Transportation Business Plan. The draft document is specifically intended to be an instrument for interaction to help ensure comprehensive planning.

Status of Repository Development

The Nuclear Waste Policy Act lays out a lengthy, careful and deliberate process for selecting the first repository. I am committed, and the Secretary of Energy is committed, to following that process. We are committed to making siting decisions within that process. Not to follow that process would jeopardize our ability to carry out the national policy and goals established by the Act as well as the delicate balance arrived at by the crafters of the Act.

The process consists of several steps. The key initial activities include the development of Siting Guidelines, the identification of potentially acceptable sites, and the preparation of Environmental Assessments leading to selection of sites suitable for characterization.

The Act requires that general guidelines be developed for the recommendation of sites for repositories. The Guidelines establish performance objectives for a geologic repository system, define the basic technical requirements that candidate sites must meet and specify how DOE will implement its site selection process.

Concurrence on Siting Guidelines by the Nuclear Regulatory Commission came shortly after I arrived on the job. I had the pleasure of witnessing a 5-0 Commission vote of concurrence. Based on that concurrence, the final Guidelines will be published in the Federal Register in the next couple of weeks.

When the Act became law in January 1983, DOE had under study nine sites for consideration for the first repository. In February 1983, those sites, including two in Utah, one in Washington, one in Nevada, two in Texas, two in Mississippi and one in Louisiana, were formally identified as being potentially acceptable sites for the first repository.

The process we are focusing on now is to select sites for characterization. We expect to be able to recommend three sites to the President in mid-1985. We then have about five years of detailed site investigation involved in characterization. The recommendation of a single site for construction of the first repository will occur around 1990.

At the present time, we are nearing completion of draft Environmental Assessments on the nine sites. They will discuss potential impacts of site characterization, assess regional and local impacts of repository development, and assess site suitability against the DOE Siting Guidelines.

We plan to complete and issue the draft EA's on December 20, 1984. The draft EA's will be made available for a 90-day comment period. During that comment period, briefings will be held around the country to describe to interested parties the structure of the documents and how to use the documents to facilitate their review. Public hearings are planned in the vicinity of the sites to receive oral and written comments. In addition, written comments will be accepted throughout the comment period.

After the comment period ends and comments have been reviewed, we will prepare final EA's which will provide the basis for nomination of at least five of the nine sites as suitable for site characterization.

After nomination, and based on all available data, the Secretary will recommend to the President three of those nominated sites for site characterization. The current schedule, as mentioned earlier, is for this recommendation to be made in mid-1985.

memorandum

FOR YOUR
INFORMATION
ONLY

By T. TAYLOR

DATE: SEP 21 1984

REPLY TO
ATTN OF: RW-1

SUBJECT: Revised Internal General Guidelines on Nuclear Waste Repository Program Grants

TO: H. J. Rauch, CH
T. R. Clark, NV
M. J. Lawrence, RL

The past year's program of financial assistance to States and Indian tribes under the Nuclear Waste Policy Act proceeded under general guidelines issued on June 24, 1983. We have felt the need to revise these Guidelines in order to reflect the changing activities of program participants and lessons learned since the Guidelines were originally issued, as well as to address the site characterization phase of the program, upon which we are now entering. As with the June Guidelines, these revised Guidelines are intended to:

- o aid OCRWM field organizations in carrying out repository program financial assistance to States and Indian tribes; and
- o serve as the general policy basis for close headquarters/field consultation to resolve specific issues relating to repository program grants.

The Guidelines are not intended to provide answers to every possible question that may arise during negotiations which relate to program policy and execution; that can best be accomplished through close coordination between headquarters and the field.

The Guidelines are intended to assist field offices by establishing a single framework within which grants can be negotiated and awarded; by ensuring that all involved States and Indian tribes are treated equitably; and by ensuring that activities funded by the grants are consistent with the NWPA.

I want to thank you for the assistance of the project offices in helping to prepare these Guidelines. Every effort has been made to be responsive to comments received. Where differences existed, an attempt was made to establish guidance that was broad enough to allow individual offices flexibility in tailoring the Guidelines to their particular needs and requirements.

SEP 24 1984

In keeping with the Department's objectives of openness and close consultation and cooperation, copies of these guidelines should be distributed widely to all relevant States/tribes and other groups who have an interest in the program.


Ben. C. Rusche, Director
Office of Civilian Radioactive
Waste Management

Attachment

cc: S. Mann, CH
J. Neff, SRPO
L. Olson, RL
D. Vieth, NV

INTERNAL GENERAL GUIDELINES FOR IMPLEMENTING
FINANCIAL ASSISTANCE (GRANTS) FOR REPOSITORY PROGRAMS
UNDER SECTIONS 116 AND 118 OF
THE NUCLEAR WASTE POLICY ACT OF 1982
REVISED SEPTEMBER 7, 1984

1.0 PURPOSE

The purpose of the financial assistance program under the Nuclear Waste Policy Act of 1982 (the Act) is to ensure that eligible States and affected Indian Tribes have sufficient financial resources to participate in the repository development process as mandated by the Act. DOE is fully committed to the objective of timely and effective State and tribal participation and will use the financial assistance provisions of the Act to assist States and tribes in meeting this goal.

These are general guidelines. Because the needs and plans of the States and tribes involved in the different projects may vary substantially, individual DOE Project Offices will be required to deal with individual requests on a case-by-case basis. The purpose of the general guidance provided here is to assist DOE Project Offices by:

- establishing a single framework within which DOE field offices can respond to requests and negotiate and award grants;
- ensuring that all States and Indian tribes involved in the process are treated as equitably as possible; and
- ensuring that activities funded by the grants are consistent with the Act.

The purpose of these guidelines is to assist DOE in awarding grants to States and tribes in the several phases of the repository development process.

2.0 BACKGROUND

The financial assistance provisions of the Act relating to repository development are contained in Sections 116 and 118. Section 116 contains provisions applicable to the States and Section 118 contains similar provisions applicable to affected Indian tribes.

For purposes of this guidance, the repository development process has been divided into four phases: (I) prenotification; (II) notification/nomination; (III) characterization; and (IV) construction.

- Phase I States or tribes that have not been formally notified by DOE as having "potentially acceptable" sites but in which exploratory/ screening work is taking place. The Department has determined that grants may be awarded to these States or tribes prior to the time they have been notified as having potentially acceptable sites. These are referred to as "prenotification" or Phase I States or tribes and are the States/tribes that may at some future date contain a potentially acceptable site for the second repository. The 17 crystalline States fall within this category.
- Phase II States or affected tribes that have been notified under Section 116(a) of the Act that they have "potentially acceptable site" or sites for a repository. These are referred to as "notification" or Phase II States or tribes. States/tribes currently (June 1983) eligible for Phase II grants are Washington, Nevada, Utah, Texas, Louisiana, Mississippi, the Yakima Indian Nation, and the Umatilla Indian tribe. Sections 116(c)(1)(A) and 118(b)(1) of the Act provide for grants to States or tribes in this phase.
- Phase III States or affected tribes with recommended candidate sites that have been approved for site characterization by the President. These are referred to as "characterization" or Phase III States or tribes. Sections 116(c)(1)(b), 116(c)(3), 118(b)(4), and 118(b)(2)(A) of the Act specify the activities for which States and affected tribes may receive grants from DOE in this phase.
- Phase IV States or affected tribes with a site that has been authorized by the NRC for construction of a repository. These are referred to as "construction" or Phase IV States or tribes. This category will include only the sites ultimately selected for repositories. Sections 116(c)(2)(A), 116(c)(3), 118(b)(4), and 118(b)(3)(A) specify the activities for which States and affected tribes may receive grants from DOE in this phase.

This present set of guidelines focuses on financial assistance available during Phases I, II, and III. States and Indian tribes are eligible for new grants as sites proceed from Phase I through Phase IV. There should be no lapse in funding as States and Indian tribes progress from one phase to the next. However, DOE must discontinue funding for sites that are not selected for the next phase, i.e., are eliminated as candidate sites during any phase. Guidelines for terminating grants are provided later in this guidance.

3.0 ELIGIBILITY FOR GRANTS

- States and affected Indian tribes that have been notified pursuant to Section 116(a) are eligible to receive financial assistance under the Act and fit into Phase II of the financial assistance program. States and affected Indian tribes are eligible for Phase III grants where a candidate site for a repository is approved under Section 112(c) for site characterization. DOE has also determined that where the Department is conducting exploratory/screening activities prior to notification, pursuant to Section 116(a), States and tribes may be eligible for grants for a limited range of activities related to State/tribe review of and comment on DOE documents and plans and other related activities.

4.0 RECIPIENTS OF GRANTS

4.1 Indian Tribes

The Act identifies an affected Indian tribe as the appropriate recipient of grants awarded under Section 118(b).

4.2 States

Groups within a State that could be potential grant recipients include:

1. The Governor's office or an office under the Governor - either an existing department, an advisory board or a new agency dealing exclusively with the nuclear waste issue;
2. An office or board of the State legislature; and
3. A local governmental entity such as a county government office.

The Department intends to negotiate and award grants to a single entity within the State (as determined by the State) while recognizing the legitimate needs of various parties within the State for financial support.

5.0 ACTIVITIES FUNDED

5.1 General

The Act provides basic guidance on allowable project activities for which grants may be awarded. These allowable uses will vary depending on the phase of the repository development process in which the States or affected tribes are involved. Activities funded will also vary with the level of participation desired by the State or tribe.

Grant applications should contain a detailed description of activities planned by the State or Indian tribe for the term of the grant and a budget that details the costs of conducting those activities.

DOE's Financial Assistance Rules, 10 CFR Part 600 (47 FR 44076, October 5, 1982), establish minimum requirements applicable to all grantees for reporting on progress and expenditures of grant funds.

5.2 Phase I (Prenotification) States or Tribes

- Review and Comment - Activities in this category should focus on reviewing and providing comment on DOE documents and plans related to repository development activities within the State or tribal area. Examples of such documents and plans include:
 - Mission Plan;
 - Siting Guidelines;
 - Regional Characterization Reports;
 - Region-to-Area Screening Methodology;
 - Area Recommendation Reports; and
 - Area Characterization Plan.
- Attendance at DOE-Sponsored Meetings and Workshops
- Preparation for C&C Agreements - Funds may be provided to permit the State or tribe to prepare to negotiate a C&C agreement. Activities may include information gathering, developing draft provisions, and initiation of training of staff in preparation for negotiations with DOE. (See DOE Internal General Guidelines for Implementing the Consultation and Cooperation Agreement Provisions of Section 117 of the Nuclear Waste Policy Act of 1982). Since C&C negotiations, pursuant to Section 117(c), are to be initiated only after potentially acceptable sites have been identified, funding for this type of activity should be limited to those States and tribes where DOE has made a preliminary identification that a potentially acceptable site may be located (e.g., in a draft Area Recommendation Report).
- Public Information Programs and Provisions of Information to Officials - Activities in this category should focus on:
 - Dissemination of program information to various State, local, and tribal officials and the public;
 - Coordination with interested groups within the State or tribe, including other State agencies with an interest, the legislature, local governments, and citizen groups;

- Preparation and participation in public briefings and meetings, including preparation of briefing materials; and
- Participation in regional interstate information meetings as appropriate.

Due to the preliminary nature of DOE's technical program at the Phase I stage, development of new publication materials should be kept to a minimum and coordinated between the grantee and DOE.

5.3 Phase II (Notification) States or Tribes

Activities that may be funded by Phase II grants are specified in Sections 116(c)(1)(A) and 118(b)(1) of the Act. The grants shall be made "for the purpose of participating in activities required by Sections 116 and 117 or authorized by written agreement under Section 117(c)." This provision covers a broad range of activities that may be eligible for funding. Special consideration should be given to activities designed to achieve the goals of maximizing State or tribe involvement in the overall repository development program and enabling States and tribes to participate effectively in the development of binding written C&C agreements. Examples of permissible activities include the following:

- Activities Leading to C&C Agreements - DOE is required to begin negotiations on the C&C agreements within 60 days after (1) a candidate site has been approved for characterization by the President, or (2) receipt of a written request by a State or Indian tribe notified under Section 116(a), whichever occurs first. A State or tribe may wish to gather information, develop draft provisions, orient and train staff for the negotiation of C&C agreements, and conduct C&C negotiations.
- Review and Comment - Activities in this category should focus on reviewing and providing comment to DOE on the plans, reports, proposed rules, etc., that are relevant to repository development activities within the State or tribal area. Examples of such items include:
 - Review of documents prepared by or for DOE, NRC and EPA and any other Federal agencies identified in the NWPA. These documents include but are not limited to:
 - Siting guidelines and modifications thereto;
 - Mission Plan;

- Environmental assessments;
 - Site Characterization Plan preparation material;
 - Geologic/hydrologic evaluation reports;
 - Repository engineering reports; and
 - Socioeconomic, environmental, and transportation reports.
- Attendance at DOE-Sponsored and Other Program-Related Meetings and Workshops
 - Public Information Function - Activities in this category should focus on grantee programs to disseminate information to groups within the State or tribe and respond to questions from individuals or groups within the State or tribal area. DOE may provide parallel services to the public and will coordinate public information activities with the grantee. Activities may include:
 - Development of publication materials;
 - Dissemination of program information;
 - Operation of public information offices;
 - Conducting of public information meetings;
 - Provision of information to officials;
 - Site visits;
 - Participation in and attendance at interstate information meetings as appropriate; and
 - Attendance at project-related meetings.
 - Coordination Activities - These activities should enable grantees to coordinate with interested groups and citizens within the State or tribe. These groups might include other State agencies with an interest, the legislature, local governments, and citizens groups. The grantee should assume responsibility for soliciting views of such groups and keeping them informed of State/tribe activities.

- Monitoring, Analyses, and Studies - Activities in this category should focus on the analyses and studies necessary to provide appropriate monitoring and evaluation of DOE activities. Examples of such monitoring may include:
 - Independent review of DOE procedures, analyses, and programs;
 - Participation in technical review of DOE programs; and
 - Participation in development of DOE technical work plans.

5.4 Phase III (Site Characterization) States or Tribes

Activities that may be funded by Phase III grants are specified in Sections 116(c)(1)(B) and 118(b)(2) of the Act. Grants shall be made to States and Indian tribes where "a candidate site for a repository is approved under Section 112(c)." The provisions of the Act pertaining to site characterization cover a broad range of activities that may be eligible for funding, including developing the capability to monitor DOE activities, to understand the technical aspects of the program and its implications, and to evaluate potential impacts. However, duplication of data collection efforts and associated activities should be minimized to the maximum extent practicable and avoided if at all possible. Examples of permissible activities include the following:

- Activities Leading to C&C Agreements - As mentioned in Section 5.3 of the Guidelines, within 60 days of approval of a candidate site for characterization, DOE is required to initiate negotiations toward a C&C Agreement. A State or tribe may use grant funds to gather information, develop draft provisions, orient and train staff for the negotiation of a C&C Agreement and conduct C&C negotiations.
- Review and Comment - Activities in this category should focus on reviewing and providing comment on site characterization activities conducted by DOE, NRC, EPA, and other agencies for the purposes of determining any potential economic, social, public health and safety, and environmental impacts a repository may have on States, tribes and their residents. Examples of such items include:
 - Review of documents prepared by or for DOE, NRC and EPA such as DOE Site Characterization Plans;
 - Testing of DOE computer models; and
 - Review of Quality Assurance audits.

- Attendance at DOE-Sponsored Meetings and Workshops
- Monitoring, Analyses, and Studies - Phase III activities in this category should focus on the monitoring and evaluation of DOE site characterization activities. The grantee may also receive funding to run independent tests on DOE data, where the need for such independent testing can be justified. Examples of activities in this category include:
 - Monitoring of field activities by on-site resident observers;
 - Periodic inspections of DOE operations at site;
 - Monitoring and assessing the technical quality of DOE air or water quality monitoring installations;
 - Monitoring of cultural and environmental information gathering; and
 - Independent laboratory tests with DOE-provided samples, where the need for such testing can be justified.
- Impact Mitigation Request - Development of a request for impact assistance under Phase IV of the financial assistance program is required under Sections 116(c)(2) and 118(b)(3). Such impact assistance should be designed to mitigate the impact of the development of a repository, following the initiation of construction. In order to receive impact mitigation assistance in Phase IV, a State or tribe must prepare and submit "a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site..." This report must be submitted following completion of site characterization. Examples of activities under this category include:
 - Preparation of draft impact report including evaluation of baseline and project-related activities and effects;
 - Establishment of a framework for community participation (e.g., establishment of working groups that would include local citizens, officials, and interest group representatives); and
 - Training for negotiation of binding written agreements concerning impact mitigation at the appropriate time.

- Public Information Programs - Activities in this category should focus on grantee programs providing information to its residents regarding any activities of the State, Indian tribe, the Secretary, or the Commission with respect to a site being characterized, including activities such as:
 - Development of publication materials;
 - Dissemination of program information;
 - Operation of public information offices;
 - Conducting public information meetings;
 - Provision of information to officials;
 - Site visits;
 - Participation in and attendance at interstate information meetings as appropriate; and
 - Attendance at project-related meetings.

5.5 Grants-In-Lieu-Of-Taxes

Sections 116(c)(3) and 118(b)(4) of the Act provide for grants-in-lieu-of-taxes (GILOT) to States, units of general local government and affected Indian tribes during Phases III and IV as defined above. Separate guidelines will be developed to assist in implementation of the GILOT program.

6.0 REVIEW, NEGOTIATION AND FUNDING LEVELS

The DOE Project Offices have the responsibility to review each grant application to determine whether it conforms to the DOE Financial Assistance Rules, the requirements and goals of the Act, and these general guidelines.

The Project Offices working through their respective field operations offices have the authority to negotiate with the grant applicant any changes required to make the grant application conform to the requirements referenced above and the funding available within the project. The Project Office should discuss these requirements with potential grant applicants as early as possible (where possible, prior to receiving a formal application) to keep delays to a minimum in meeting State and tribal financial needs.

The funding levels for various grants should represent a balance between the varying needs of the different States and tribes and the need for equity among the States and tribes. Communication between field offices and Headquarters is essential in developing reasoned judgments on the optimum relationship between a grantee's proposed activities and the level of support requested. No grant shall be approved without Headquarters concurrence.

7.0 LIMITATIONS AND DISCONTINUATION OF FINANCIAL ASSISTANCE

Because of the changing status of States and tribes relative to the geologic repository program under the Act (e.g., a State or tribe can move successively from the Phase I category to Phase IV or can be disqualified from further consideration), each grant should specify the conditions under which continuation awards would be made or denied.

Sections 116(c)(4) and 118(c)(5) specify criteria for termination of the grants under certain circumstances. These criteria refer primarily to termination of site characterization activities by DOE or formal disapproval of a site by Congress or the NRC. A number of sites will be dropped from consideration for a repository long before the termination conditions provided in the Act are reached. To assure that grants are phased out on an orderly basis, each grant should contain terms that specify how funding will be terminated. The following approach is suggested for sites that may be eliminated during Phase I or II:

- Funding would terminate as set forth in applicable OMB Circulars and DOE's Financial Assistance Rules. If standard practices would not adequately protect the interests of the Government, a 90/180 day procedure will be used. Funding would terminate either 90 or 180 days after it has been decided to eliminate a site from further consideration and the State or tribe has been so notified. Generally, the 90 day period should be adequate to permit an orderly discontinuation of funded activities for States or tribes eliminated during Phase I and 180 days should be adequate for States or tribes eliminated during Phase II.

7.1 Unallowable Costs

The Act specifies that no "ordinarily incurred salary or travel expense" is eligible for funding under Sections 116(c)(1)(A) or 118(b)(1). This means that DOE may finance extraordinary travel and salary expenses incurred as a direct result of the provision of services to, or incurred as a direct result of participation in, waste disposal activities of the DOE under the Act. Salary and travel-related expenses of State employees working full- or part-time on waste disposal activities, consultants and other providers of contract services are potentially fundable. However, only those salary and travel expenses incurred by the State or

tribe that would not have otherwise been incurred but for passage of the Act may be considered extraordinary expenses. Only extraordinary expenses, as described above, may be financed for Phase I States/tribes.

8.0 COORDINATION OF GRANT REQUESTS AND AWARDS

The timely exchange of information between the Project Offices and Headquarters and among the Project Offices is necessary to ensure that timely guidance on various specific and general issues is provided when needed, and that reasonable consistency and equity among States and tribes associated with different projects is maintained. To facilitate this exchange of information the Headquarters staff will serve the role of an "information clearinghouse" for grant applications and awards.

The Project Offices shall provide Headquarters staff information copies of all grant applications as they are received. This shall be followed up with informal status reports on negotiations as they proceed. During this process, Headquarters staff will provide guidance to the Project Office as requested and information on how similar situations or applications have been or are being handled in other Project Offices. The Project Office shall also provide to Headquarters copies of all grant awards, quarterly activity reports, and financial status reports. This information will serve as the basis for: (1) a periodic summary report on the level and substance of grant activities under the Act, and (2) providing additional specific guidance.

DRAFT #2

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CHAPTER XII. CONCLUSIONS AND RECOMMENDATIONS

As required by Section 303 of the Nuclear Waste Policy Act of 1982 (NWPA) and by the task assigned to it by the Secretary of Energy, the Panel has studied alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. The Panel has also considered alternative means of financing the program as implied by the title of Section 303.

ORGANIZATIONAL ~~TECHNICAL~~ CONSIDERATIONS

The Panel finds the Office of Civilian Radioactive Waste management within DOE to be, and to have, a moving target. The 14 month-old OCRWM is now in the midst, following appointment of its first Director in May, of yet a new set of actions fundamental to the implementation of the NWPA:

1. A revised OCRWM organizational structure is again being put in place, with several key changes, (e.g., establishment of the Office of Policy Integration and Outreach), and again with a number of key personnel changes.
2. The Mission Plan is again being revised, including reconsideration of each of the schedule milestones and the programmatic requirements on a total waste systems approach. This effort reflects studies of the entire system, including

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consideration of allowances for contingencies. The ongoing changes in the Mission Plan, including design decisions and milestone schedules, are likely to impact the budget and the adequacy of program revenues.

3. Effort is underway to execute consultation and cooperation agreements with states and Indian Tribes, and in that context, the OCRWM is making commitments to those constituencies. Commitments are also being made (or at least the Director is articulating the latest OCRWM positions) to other key stakeholders, such as the utilities and environmental groups, on key interpretations of NWPA provisions (e.g., the responsibility of the Government to take title to spent fuel in 1998 whether or not a repository is ready; the requirement that only one of the three candidate sites need be found acceptable; the need for an MRS; etc.).

It is in midst of these events, and with the knowledge that it may be difficult to effect any legislative changes to the NWPA, that the Panel presents its recommendation. Within that frame of reference, we find there are serious defects in the OCRWM as a management structure. Particularly, and recognizing the history of predecessor organizations (AEC and ERDA) and continuing discussion of liquidation of the DOE, there is a serious and

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inherent lack of stability and continuity. This is a major cause of the absence of credibility, which inhibits DOE's effectiveness. In fact, when we subject OCRWM to this and other tests developed by the Panel, and compare it to the alternate forms of organization considered, the overwhelming majority of the Panel gives the other forms higher ratings.

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At the same time, such rating exercises done in the abstract must clearly be examined in the light of the real-life circumstances before recommendations can be extracted from them. In that context, the Panel also recognizes that civilian radioactive waste management, as a "business," has a number distinct phases with unique characteristics (presented in Chapter 4), with which any organization would find it difficult to cope. The NWPA recognizes the ^{provisions} ~~conflict between those~~ ^{need for} provisions designed to assure maximum accessibility and responsiveness to many and diverse constituencies with serious interests in the program, and the ^{need for} very prescriptive milestones and other programmatic mandates. We find that organizational forms which better meet the tests may be desirable, but recognize there is an intrinsic uncertainty as to how confident one can be that the organization form that looks best on paper will in reality and over time fulfill its promises, and will in fact function as it is designed to function. We also recognize that any organizational change will present transition problems.

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It cannot be overemphasized that the most difficult phase of the overall waste program is the selection and approval of a repository site. Once such a site has been selected and licensed, the programmatic responsibilities will be substantially different, and could be transferred or contracted to an organization other than the one responsible for site selection and obtaining licensing. The Panel believes there are several organizational forms, including private corporations, more suited than the DOE for managing the construction and operation phases. The panel also believes that, regardless of the "preferred" organizational form, the site selection process could be enhanced and made more credible by the use of a special siting advisory council comprised of representatives of all stakeholders.

We conclude that an immediate effort must be made to improve the credibility, internal flexibility and cost effectiveness of the OCRWM. However, in recognition that no modification to the DOE/OCRWM organization would provide adequate stability and continuity, it is our principal recommendation that investigation of the specific steps necessary to implement, for example, a dedicated Federally chartered corporation which was the first choice of the panel voting on organizational tests, should be undertaken immediately so that Congress can have a precise understanding of the legislative changes to bring about such an organization.

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Financing

The main thrust of the Panel study has dealt with the structure and capabilities of various organizational alternatives for managing the high-level radioactive waste management program. As evidenced by the material contained in Chapter II of this report, however, the Panel also gave consideration to the financing processes of the NWPA, and to certain financing alternatives which might be substituted for the existing mechanisms. In doing so, the Panel encountered an array of financial uncertainties which confront the radioactive waste management program as it moves forward over the next two decades. At this juncture, it is extremely difficult to predict how future events, programmatic developments, and economic influences will affect the financing structure and cost level over the term of the program.

It is the Panel's conclusion that the financing mechanism provided by Congress under the Nuclear Waste Policy Act appears to be fair, amenable to administrative implementation and cost controls, and sufficiently flexible to accommodate the full-recovery requirement of the legislation. Under NWPA, utilities are assessed a fee of 1 mill per Kilowatt-hour of nuclear-generated electricity, plus a one-time fee for spent fuel accumulated prior to April 7, 1983.

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Based upon the Panel's general scrutiny, DOE implementation of the NWPA financing provisions is proceeding in a generally satisfactory manner. More importantly, the financing system devised by Congress shows no evidence of a serious flaw in its design and operation to date. And finally, this financing strategy appears to be adaptable to a change in organizational structure such as that contemplated in this report.

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FINANCIAL ASSISTANCE

REVISED GENERAL GUIDELINES 9/21/84

- ELIGIBILITY
- PHASES (I TO IV)
- FUNDABLE ACTIVITIES
- ROLES OF PROJECT OFFICES AND HQ

Presentation by T. Taylor/DOE

FINANCIAL ASSISTANCE

GRANTS IN LIEU OF TAXES (GILOT)

- SRPO STUDY

FINANCIAL ASSISTANCE

GRANTEE RESPONSIBILITIES

- ALLOWABLE COSTS
- REPORTING REQUIREMENTS

- HQ CLEARINGHOUSE
- GRANTEE TRAINING

PROGRAM UPDATE

- MISSION PLAN
- SITING GUIDELINES
- ENVIRONMENTAL ASSESSMENTS
- DEFENSE WASTE REPORTS
- MRS REPORT
- TRANSPORTATION BUSINESS PLAN
- CRYSTALLINE PROGRAM
- PROJECT DECISION SCHEDULE

11/16/84 Salt State Caucus Transmittal to DOE/SRPO

Action Items

Written Documents of Current Interest:

- (1) Headquarters guidance documents for preparation of EA interactions - provide to States now.
- (2) GILLOT Report being prepared by ONWI - provide to States before or at the same time provided to Headquarters.
- (3) Statement of rationale regarding use of grant funds for litigation - provide to States as soon as can be prepared.
- (4) Current drafts of BWIP and NTS EA Interaction Plans - provide to States now.
- (5) Project Decision Schedule - provide the current working draft to the States now.
- (6) Current Working Draft of the Louisiana Socioeconomic Data Base (ONWI-565) - provide at least one copy to Louisiana.
- (7) Legal Analysis of the NWPB Requirements for the Mission Plan Review Process - Provide to the States now.

Item:

States should be provided with timely, clear, and accurate written responses to requests regarding participation in program activities. If decisions of program managers result in a change in the substance of the DOE response, states should be promptly notified in writing and provided with the rationale for such change and a statement of the current status of the states relative to the original request.

In accord with this position, the states of Texas, Louisiana, Mississippi, and Utah, repeat their desire for participation in the DOE's planning and interaction with other federal agencies regarding land acquisition procedures and activities, and further request a written status report of such planning and activities.

Item:

The states request information regarding the DOE's plans for determining the scope and objectives of socioeconomic and environmental investigations, including transportation, to be undertaken during site characterization and further request early involvement in the development of such plans and the procedures for participation in the planning and review of such plans.

Item:

Regarding a workshop on grant application and administration, the states do not find a need for a collective meeting at this time. Individual states may request assistance from DOE in the future.

Item:

The states request that all EA briefing sessions taking place under any EA Interaction Plan implemented during the draft EA review and comment period be transcribed verbatim and that the transcription of all briefings be provided to the states before the close of the draft EA comment period. It is further requested that the response to this request be incorporated into the final EA Interaction Plan provided to all affected states and tribes.

States want an interactive Hearing

Item:

The states will respond ASAP on an individual basis regarding their needs for hard copies of the EA references. The Salt States do, however, collectively request that, at least, microfiche copies of the BWIP and NTS EA documents be provided to the Salt States.

Item:

At the present time, the states agree that the next Salt States Meeting should be deferred until after the close of the draft EA comment period, with a meeting date and an agenda to be determined.

Statement of Position:

This transmittal of Salt State requests and positions to SRPO constitutes a joint statement of Louisiana, Mississippi, Texas, and Utah to be included in the minutes of the Salt States Meeting and represents a formal correspondence to the DOE/SRPO from the four states for which timely responses are expected. Action items presented at future Salt States meeting are considered to be included in this statement.