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FROM: Eileen T. Tana

SUBJECT: SECY-87-267

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NOTE TO: Interested Parties

FROM: Eileen T. Tana

SUBJECT: SECY-87-267

For your information, enclosed is SECY-87-267, Second Quarterly Progress Report on the Pre-Licensing Phase of DOE's Civilian High-Level Radioactive Waste Management Program, dated October 26, 1987.

Sincerely,

/s/

Eileen T. Tana, Licensing Assistant
Operations Branch
Division of High-Level Waste Management

Enclosure:
SECY-87-267



POLICY ISSUE

October 26, 1987

(Information)

SECY-87-267

For: The Commissioners

From: Victor Stello, Jr.
Executive Director for Operations

Subject: SECOND QUARTERLY PROGRESS REPORT ON THE PRE-LICENSING PHASE OF DOE'S CIVILIAN HIGH-LEVEL RADIOACTIVE WASTE MANAGEMENT PROGRAM

Purpose: To provide the Commission with the second quarterly progress report on the pre-licensing phase of DOE's Civilian High-Level Radioactive Waste Management Program.

Executive Summary: In its first quarterly progress report (SECY-87-137), dated June 8, 1987 on the pre-licensing phase of DOE's Civilian High-Level Radioactive Waste Management Program the NRC staff discussed seven action items which cover the key aspects of the NRC/DOE pre-licensing consultation program. Focusing on these items will provide the Commission with the NRC staff perspective on the progress of DOE's repository program in areas important to an effective NRC high-level waste program.

The most significant change in the status of the repository program in this past quarter, was DOE's decision, announced on August 26, 1987, to revise the dates for issuance of site characterization plans (SCPs) by releasing, for all three sites simultaneously, consultation draft SCPs in January 1988 and SCPs in early FY89. Previous schedules called for the release of SCPs in a sequential manner, starting in late 1987.

Another item of significance is the progress made this quarter in the development of a licensing support system (LSS), with DOE's awarding a contract to Science Applications International Corporation for the development of a LSS. Along with this

Contact:
Wayne Walker, NMSS
427-4686

activity the Commission's negotiated rulemaking process to implement the LSS in the HLW licensing proceeding has started. The second meeting of the licensing support system Advisory Committee was held October 15-16, 1987 with negotiations to proceed over the next nine months.

In the Quality Assurance (QA) area, the NRC staff conducted its first audit of DOE's QA program for the high-level waste repository during the week of June 8, 1987. The audit team assessed the quality assurance measures applied to the mineralogy/petrology studies at the Los Alamos National Laboratory (LANL) which support investigations at the Yucca Mountain, Nevada site. While there continues to be overall progress in DOE's QA activities, the NRC staff determined that the QA program at LANL is not fully in place yet and needs some improvement prior to the conduct of site characterization work in the area of geochemistry.

Discussion:

The current status of the seven action items that NRC uses as performance indicators to assess progress in the high-level waste repository program is given below.

1. Implementation by DOE of Scheduled and Systematic Consultations:

DOE announced on August 26, 1987 that they will issue the consultation draft SCPs for all three sites simultaneously on January 8, 1988. DOE's previous schedule called for sequential release of the SCPs starting in late 1987. During January, February, and March 1988 DOE will conduct consultation workshops with State, Indian Tribe and NRC representatives. These workshops should provide a forum to explain the documents, address and resolve issues to the extent possible, and to receive questions and comments. The DOE will close out the consultation period and, after consideration of comments, proceed to prepare the SCPs with a schedule date determined by the results of the consultation period. DOE anticipates issuance of SCPs in January 1989. Subsequently, there will be a 90 day public review with public hearings, as called for by the Nuclear Waste Policy Act (NWPA) as well as NRC's six month review and preparation of the Site Characterization Analysis (SCA).

The workshops for the review of consultation draft SCPs proposed by DOE should provide for systematic consultations between NRC staff and DOE. In addition the consultation draft SCPs will lay out detailed milestones and schedules for each project. Such project-specific milestones and schedules are needed to enable NRC and DOE to schedule appropriate consultations as the project work proceeds.

The current status of NRC/DOE consultations for the period of June 1987 to the present is as follows: There were no formal meetings between the NRC staff and the DOE's Texas Salt Repository Project (SRPO). For the DOE's Nevada Nuclear Waste Storage Investigations (NNWSI) Project, a technical meeting on seismo-tectonics was held September 22-23, 1987 in Las Vegas. For the DOE's Hanford Basalt Waste Isolation Project (BWIP), a hydrazine data review was conducted by NRC staff July 21-22, 1987. In addition, there were four NRC/DOE technical meetings on generic topics (i.e. Issues Hierarchy, Design Basis Accident Dose Limit, Q-List Generic Technical Position and NRC comments on DOE's Office of Geologic Repositories QA Plans).

The last quarterly report discussed the need for an increase in frequency and effectiveness of NRC/DOE site-specific technical interactions. While there were a number of effective generic interactions, the DOE site project offices continue to be occupied with writing the SCPs making it difficult to find mutually acceptable times to hold as many site-specific technical interactions as would be desirable. The NRC staff anticipates that this situation will be changed by DOE issuing consultation draft SCPs and conducting workshops which will help focus the program. In addition, the consultation draft SCPs will provide milestones and schedules for future activities. This should help NRC staff to focus on needed technical interactions with DOE.

A major item from the last quarterly report concerned key areas of near-term testing at the three candidate sites. NRC has not received any official response from DOE on this matter. However, the NRC staff has received informal indications that DOE will start submitting study plans for near-term activities to the NRC in the first quarter of FY88.

2. Development of an Information Retrieval System:

During the past quarter DOE awarded a contract for the development of a document retrieval system which is referred to as the Licensing Support System (LSS). The DOE has assumed the responsibility for developing a system with the capability to assure that all relevant HLW licensing documents will be readily available when needed. The DOE LSS is not scheduled to be fully operational until 1990. During the interim DOE has several existing document information systems at various stages of development at each of the project sites and headquarters. Efforts are underway at DOE to establish common procedures across the various offices to insure that interim document collection and storage is accomplished. The Agreement in Principle between DOE and NRC recognizes the need for both the DOE and NRC to have interim record management collection requirements until such time that the LSS is operational.

The nature and scope of the LSS, and specific requirements which will lead to a system design, are presently the subject of a negotiated rulemaking. Involved States, Indian Tribes and other interested groups will be represented in the negotiated rulemaking. It is intended that the rulemaking will describe the requirements for the LSS necessary to serve all parties in the licensing proceedings.

On September 16-17, 1987 the NRC held the first meeting of the HLW Licensing Support System Advisory Committee in Washington, D.C. The purpose of this federal advisory committee is to negotiate a proposed rule on the submittal and management of records and documents related to the licensing of a high-level radioactive waste repository. (See SECY-86-133, SECY-86-308, and SECY-87-140 for more detailed information on the purpose of this rule and the use of negotiated rulemaking).

The meeting was organizational in nature; the major items on the agenda being to discuss organizational protocols, develop a list of issues for negotiation, discuss training and information needs, and plan an agenda for future meetings. NRC staff from the Office of the General Counsel (OGC) will sit at the negotiating table as principal spokespersons for the NRC. They receive input from the other NRC Offices through an NRC

negotiating team. In accordance with 10 CFR Part 7.10, the Office of Administration and Resources Management is serving as the designated Federal Officer for the Advisory Committee and Office of Nuclear Material Safety and Safeguards (NMSS) administers contractual support for the negotiated rulemaking. Other members of the negotiating committee represent DOE, the affected States and Indian Tribes, local governments, utilities, citizens groups and environmental groups.

The most recent meeting of the negotiating committee was held in Washington, D.C. on October 15-16, 1987. At this meeting NRC contractors provided the negotiating committee with instruction in the capabilities of electronic information management systems, negotiation training, and information on the legal constraints affecting this rulemaking.

The LSS activities have been transferred from the NMSS to the Office of Administration and Resource Management (ARM) as part of consolidating all data processing and document management functions.

3. Early Implementation of a Quality Assurance Program:

10 CFR Part 60.151 of the Commission's regulation requires DOE to have a quality assurance program that applies to all systems, structures and components important to safety, to design and characterization of barriers important to waste isolation and to activities related thereto including site characterization.

DOE has committed to having qualified quality assurance programs in place for site characterization activities that may be important to public health and safety and to waste isolation. This commitment is necessary since most of the data collected during the site characterization program is expected to be utilized in the licensing process and must, therefore, be of demonstrable quality.

DOE continues to make progress in developing its QA program. The NRC staff's assessment of DOE's QA program began with observation of certain DOE audits. After DOE determines a part of its program is ready for NRC review, NRC staff audits selected critical portions of the program. This is to ensure that DOE's QA program is checked by DOE to its satisfaction

first and then checked on a sample basis by the NRC. Based on lessons we have learned from our experience with QA at reactors it is essential to combine examinations of technical quality with QA reviews. For this reason we send specialists in the relevant technical area with our QA specialists to audit DOE activities.

The NRC staff's first audit of the implementation of this program was conducted at Los Alamos National Laboratory (LANL), the week of June 8, 1987. The area audited was part of the geochemistry program supporting DOE's Yucca Mountain project. The NRC audit team consisted of personnel with expertise in both quality assurance and geochemistry. The NRC audit team found several areas where improvements are needed to ensure the QA program is fully in place. These are summarized below:

- o Procedures--LANL does not have in place all of the procedures necessary. In addition, some portions of existing procedures were not being followed by LANL staff.
- o Internal audit program--LANL is required to establish an internal audit program to assess the effectiveness of its own QA program. Although a program is in place, it had not detected deficiencies which were detected by an audit conducted by DOE's Nevada Project Office, nor those detected by NRC's audit. Thus, LANL's own audit program needs to be strengthened.
- o Documentation of qualifications and training of personnel--although the audit revealed no substantive problem with regard to technical personnel training and qualifications, the records in this area were incomplete.

We concluded that the LANL QA program is not fully in place yet and needs some improvement prior to conduct of site characterization work in the area of geochemistry. We have met with DOE to review our findings, sent a formal report to DOE on our findings, and will be monitoring corrective actions DOE will be taking.

NRC currently plans to audit a selected portion of the hydrological testing program at the Hanford Washington site in the 1st or 2nd quarter of FY88. Other areas will be selected

based on DOE's identification of areas they consider are ready based on their own QA auditing program, at the rate of about one per quarter.

4. Early Establishment of Repository Design Parameters:

NRC and DOE have agreed that in developing SCPs and the site characterization program DOE will use performance allocation; that is, DOE will select tentative values for the contributions that each of the natural and engineered barriers can reasonably be expected to provide to the overall waste isolation performance of each site in order to establish specifically what information site characterization activities will have to produce. DOE has developed an issue-resolution strategy that incorporates NRC's suggested concept of performance allocation. At the DOE/NRC Issues Hierarchy/Performance Allocation meeting in March 1987, DOE presented their current approach to identification of issues and use of performance allocation to identify the information needed to resolve them. DOE presented a briefing October 8-9, 1987 on how this approach will be implemented in developing the SCPs. The staff sees no fatal flaws in the DOE's Issues Hierarchy, Issue Resolution Strategy, or Performance Allocation at the broad level described at the March and October briefings; however, the staff will need to review the specific implementation in the draft consultation SCP's.

5. Early Resolution of State and Indian Tribe Contentions:

On June 30, 1987 NRC staff held its Second Annual Meeting with State and Tribal Representatives in the High-Level Waste Program. These annual programmatic meetings are one NRC staff mechanism for exchanging views and discussing the status of NRC and State and Tribal program activities.

The NRC staff followed up on State and Tribal concerns by developing a paper entitled "Categorization of State/Tribal Concerns Raised at NRC's June 16, 1987 Commission Meeting and June 30, 1987 Second Annual Meeting with States and Tribes in the High-Level Waste Program," SECY-87-256. Among other things, this paper lists concerns that are being addressed through other mechanisms, such as rulemakings, and responds to specific items for which the States ask clarification.

In addition to the above efforts, the Director, Division of High-Level Waste Management and the Deputy Director, State, Local and Indian Tribe Programs visited the reservations of the three affected Indian tribes in the vicinity of the Hanford site in early September 1987. The Indian Tribes visited were the Umatilla, Yakima and Nez Perce. The purpose of the trip was to gather information and discuss concerns relative to the respective Indian organizations participating as affected parties in the Nuclear Waste Policy Act Program and to answer questions they may have about NRC's role in the Program. This was especially timely since the Governmental and Public Affairs Office has assumed additional activities in this area. Following these meetings NRC staff sent to its State and Tribal contacts listings of the staff technical points of contact--both site-related and generic--in NRC's high-level waste program to facilitate direct communications between NRC and State and Tribal technical counterparts.

With respect to DOE consultation activities with the States and Tribes one of the reasons for DOE's decision to issue consultation draft SCPs was to involve the States and Tribes early and allow them a mechanism for voicing their technical concerns. DOE plans to have three months of workshops with the States, Indian Tribes and NRC to discuss the consultation draft SCPs. These workshops should provide the States and Tribes a forum for open dialogue with DOE in the SCP process allowing them to identify technical concerns and discuss first hand with DOE the resolution of these concerns. In the meetings NRC and DOE have held in this past quarter there has been active participation by States and Indian Tribes. Also during this last quarter Congress released \$79 million of funds to DOE that had been held back until DOE could demonstrate that it had made a good faith effort to reach consultation and cooperation agreements with States and Indian Tribes.

6. Adoption of Conservatism:

An ongoing concern raised by the NRC staff is the need for DOE to be more conservative in their treatment of uncertainty in geotechnical investigations. The uncertainties inherent in investigations can be compensated for by incorporating more conservatism into initial designs. DOE has made progress in this area as evidenced by improvements in the treatment of

uncertainty in the final environmental assessments, as opposed to the draft environmental assessments, and by the agreements reached between the NRC and DOE in May 1986 on how uncertainties and alternatives will be considered in SCPs. However, discussions during the most recent technical meeting on seismo-tectonics at Nevada indicated that the DOE may still not be incorporating sufficient conservatism into the SCP. The NRC staff pointed out to DOE a number of areas of concern where non-conservative decisions appear to have been made. An example is DOE's apparent use of technically unsupported, pre-assigned probabilities to potentially limit the scope of investigation. The NRC staff will selectively review drafts of test plans when they become available; however, the consultation draft SCPs will be the most definitive indication of DOE's overall progress in adopting a conservative approach.

7. Early Resolution of Issues Through a Program of Licensing Topical Reports and Other Mechanisms:

One of the major goals of the HLW repository program is to assure, to the extent practicable, resolution of licensing issues prior to the licensing hearing. The NRC staff considers that the SCPs are the primary mechanism for resolution of issues; however, the staff has also proposed using generic and site technical positions as an additional mechanism for involving all parties in early resolution of selected issues.

In the Draft Mission Plan Amendment, January 1987, DOE committed to focus on resolving licensing issues prior to licensing, in much the same manner as the NRC staff. Specifically, DOE committed to (1) interactions with the NRC on technical issues and to use available options to resolve issues; (2) implementation of an issue-resolution strategy in the SCP; and (3) implementation of a program of licensing topical reports focusing on various issues. Items (1) and (2) have been previously addressed in this paper.

Regarding item (3) DOE sent a letter to the NRC dated July 15, 1987 discussing several areas which they believe are ripe for productive interactions between DOE and NRC. The areas included in the letter were; proposed topics for both near-term and future rulemakings, the use of licensing topical reports (LTRs) to resolve issues and a review of existing regulatory guides for

applicability to the HLW program. In a September 4, 1987 response, the NRC staff agreed with DOE's two proposals for near-term rulemakings and pointed out that one, revision of Part 51, is already underway. However, we also stated that it would be premature to commit to rulemaking as the mechanism to address the remaining topics because we considered that technical positions should first be developed to better define the issues and approaches for their resolution. With regard to LTRs, we indicated agreement that there is a role for them in the HLW program and that we are evaluating procedures for using them in the issue resolution process. We also agreed that existing regulatory guides need to be reviewed to determine which should apply to the repository program. Finally, we provided a tentative list of areas in which generic issue resolution seems appropriate and proposed to meet with DOE to discuss the list and agree on specific approaches and schedules for issue resolution.

In addition to the above discussion of the seven items, enclosed is information on the current status of NRC's activities required by the NWA (Enclosure 1).

Victor Stello, Jr.
Executive Director for Operations

Enclosure:
NRC activities required by NWA

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ENCLOSURE

NRC'S ROLE UNDER THE NUCLEAR WASTE POLICY ACT OF 1982

I. NRC Role in Repository Development Program

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
1. Section 112(a)-Siting Guidelines promulgated by DOE in which NRC concurs.	7/6/83	Completed 12/84	NRC must concur in DOE Guidelines. <u>Action Taken:</u> After review and comment on draft DOE Guidelines in early 1983, NRC received final Siting Guidelines on 11/23/83. NRC held oral presentations on 1/11/84, and public comments were received through 2/1/84. On 2/29, the Commission gave tentative endorsement to the Guidelines and stated that they would concur on the Guidelines provided seven conditions were met. Following six meetings between DOE and NRC staff to resolve these conditions, final Siting Guidelines were received by NRC on 5/15/84. The Commission voted to concur on the Guidelines on 6/22/84. <u>Current Status-</u> DOE published the final Guidelines on 12/6/84. On 12/24/84, the staff forwarded a paper to the Commission (SECY-84-482) recommending that the Commission does not have to concur in the supplementary information to the final Guidelines. The Commission approved this recommendation. Nine petitions challenging the DOE Siting Guidelines have been consolidated into one suit in the 9th Circuit. DOE's motion to transfer the suit to the DC Circuit Court of Appeals was denied by the Ninth Circuit on 10/29/86. A government motion to consolidate the Siting Guidelines case with Environmental Assessment-related cases was denied. In September '87, Court upheld DOE's authority to prohibit use of NWPA funds to assist states in litigation activities.
2. Section 121(b)-NRC must promulgate technical requirements and criteria.	1/1/84	Promulgated 6/21/83	NRC must issue regulations which specify the technical requirements and criteria for the repository. <u>Current Status-</u> The regulations, which were under development by the staff for several years, were published in the <u>Federal Register</u> on 6/21/83 (48 FR 28194). The regulations are found in 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories Technical Criteria." An Advance Notice of Proposed Rulemaking (ANPR) for the definition of high-level waste (HLW) was published in the <u>Federal Register</u> on 2/27/87 (52 FR No. 39, pp.5992-6001). Comment period extended to 6/29/87. Proposed Rule to define HLW is anticipated by late 1987.

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<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
3. Section 121(a)-EPA final high-level waste standards promulgated.	1/7/84	Promulgated 9/19/85	Section 121(b) regulations and criteria must be revised by the Commission, if necessary, to comply with standards being prepared by EPA. <u>Action Taken:</u> NRC's comments on the proposed standards were transmitted to EPA on 5/10/83. <u>Current Status:</u> EPA final high-level waste standards were signed on 8/15/85, published in the <u>Federal Register</u> on 9/19/85 (50 FR 38066), and became effective 11/18/85. NRC staff reviewed its high-level waste criteria (10 CFR Part 60) for conformance with EPA standards, and provided a proposed rule (SECY-86-92) to the EDO and the Commission on 3/21/86, which the Commission approved on 5/15/86 without modification. The proposed revisions were published in the <u>Federal Register</u> on 6/19/86 (51 FR 22288) and comments were due by 8/18/86. In July, 1987 a Federal Appeals Court invalidated EPA's standards. Further action by NRC has been postponed until EPA revises its standards or is able to have parts of them reinstated.
4. Section 114(e)(1)-DOE Project Decision Schedule (PDS)	None Specified	Completed. Revision "on hold".	<u>NRC must coordinate with DOE on the development of the PDS. Action Taken:</u> DOE submitted a preliminary draft PDS for NRC comment on 1/15/85. NRC comments were transmitted to DOE on 3/4/85 (JGDavis to BRusche). DOE issued the draft PDS on 7/18/85. NRC comments were approved by the Commission (with modifications) on 9/19/85, and the final comments were transmitted to DOE on 10/24/85. The final PDS was issued on 4/3/86 (51 FR 11466) and copies were available on 4/10/86. <u>Current Status:</u> With the issuance of the final PDS, the reporting requirements of NWPA Section 114(e)(2) are in effect. Any agency that cannot meet a PDS deadline must notify DOE and Congress why it cannot comply. Staff has reviewed the PDS for DOE response to previous NRC comments, and also for any NRC milestones that are subject to Section 114(e)(2). NRC and DOE staff have been working together to resolve specific PDS concerns. On 4/3/87, B. Rusche sent letter to H. Thompson informing him that DOE has initiated a revision to the PDS. PDS revision is "on hold" pending Congressional action on Mission Plan amendment.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
5. Sections 216(a) and 301(b)- Draft Mission Plan published by DOE.	4/7/84	Published 5/84	NRC must coordinate with DOE on the development of the Mission Plan, and specify, with precision, any objections to the Plan. Action Taken: NRC received a preliminary draft on 12/23/83 and sent comments directly to DOE on 2/8/84. The draft Mission Plan required by the Act was released by DOE on 5/8/84 and forwarded to NRC for review and comment by 7/9/84. DOE briefed the Commission on the draft Mission Plan on 6/27/84. Staff comments were signed by the Chairman and forwarded to DOE on 7/31/84.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
6. Section 301(b)-Submission of DOE Mission Plan to Congress.	6/7/84	Revision submitted to Congress	Following Congressional approval of the Mission Plan, NRC will, wherever necessary, conform its waste management program planning guidance to Plan Action taken: DOE submitted the Final Mission Plan to Congress on 7/9/85. NRC testified before the Senate Committee on Energy and Natural Resources concerning the Mission Plan on 9/12/85; before the House Subcommittee on Energy and the Environment on 9/13/85; before the Senate Subcommittee on Nuclear Regulation on 10/30/85; and before the House Subcommittee on Energy Research and Production on 11/6/85. DOE issued a draft amendment to the Mission Plan for public comment on 1/28/87 with a 60 day comment period. Staff prepared a response from Chairman Zech to B. Rusche, DOE with attached comments. Letter was issued on 4/7/87. DOE submitted Mission Plan Amendment to Congress on June 9, 1987. As of 10/6/87, Congress had not taken action on the Amendment.
7. Section 117(a)-Provision of information to States/Tribes.	In a timely manner	Ongoing	NRC must provide timely and complete information regarding its determinations or plans made regarding siting, development, or design for licensing, construction, operation, regulation, or decommissioning. NRC continues to hold meetings with State and Tribal officials to exchange information. NRC attended the Quarterly Meeting of the States/Tribes in Portland, OR on 8/12-13/86, at which Commissioner Asselstine spoke on the Implementation of the DOE High-Level Radioactive Waste Repository Program. NRC participated in the Fall Conference of the Council of Energy Resource Tribes 11/17-18/86 and in a meeting of the National Congress of American Indians on 3/10/87. The Commission met with state and Tribal officials on 6/16/87 to discuss the status of the national program, and NRC staff held its Second Annual Meeting of State and Tribal Representatives in the High Level Waste Program on 6/30/87. NRC staff visited the Yakima Indian Reservation, the Nez Perce reservation, and the Confederated Tribes of the Umatilla Indian Reservation on 9/9-11/87. NRC staff also met with the Nevada Commission on Nuclear Projects on 9/17/87. Significant HLW documents are routinely distributed to State/Tribal reps, eg. NRC comments on Final EA's and draft technical positions. In addition, upcoming meeting notices are sent to reps on a weekly basis.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
8. Section 112(b)-DOE recommends to the President 3 sites for characterization for first repository. Each of the 5 sites initially nominated for characterization must be accompanied by an Environmental Assessment (EA).	1/1/85	Site recommendation 5/28/86	DOE will develop draft EAs on sites under consideration for nomination after Commission concurrence on the Siting Guidelines. NRC staff intends to review and comment on EAs. Action Taken: DOE issued draft EAs for 9 potential repository sites on 12/20/84, and the NRC review was completed on 3/20/85. According to the draft PDS, DOE had planned to publish final EAs and nominate and recommend sites in 11/85. However, on 10/30/85, DOE announced that the final EAs and site recommendation would be delayed until late 2/86 to accommodate for the National Academy of Sciences (NAS) review of the ranking methodology. Current Status: The EAs were issued on 5/28/86, and Washington, Nevada, and Texas were recommended to the President, who approved them for characterization. The affected States and Indian Tribes have challenged the EAs in the Ninth Circuit. NRC comments on the Final EAs (SECY-86-357) were approved by the Commission on 12/19/86 and were transmitted to DOE on 12/22/86.
9. Section 8-President must evaluate the possibility of developing a defense-waste only repository.	1/7/85	Final EIS due 1/88	DOE submitted a final report to the President in 2/85, recommending a combined commercial and defense repository. On 4/30/85, the President found no basis that a defense-only repository is needed and agreed with DOE's recommendation of a combined repository. DOE issued for public comment a Draft Environmental Impact Statement (DEIS) on "Disposal of Hanford Defense High-Level, Transuranic and Tank Wastes" in 3/86. NRC comments were approved by the Commission and transmitted to DOE on 9/24/86, and were made available to affected state and Tribal representatives soon thereafter. On 9/3/87, DOE briefed NRC staff on how they plan to handle NRC comments on the draft EIS. Final EIS is expected in January 1988.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
10. Section 113(b)-Submission to NRC by DOE of site characterization plan (SCP), waste form or package description, and conceptual repository design for each site.	Before sinking shafts	Consultation Draft SCPs 1/8/88.	NRC must review and comment on the submitted materials. <u>Current Status-</u> DOE schedule for submittal of three "Consultation Draft" SCPs and of Environmental and Socioeconomic Monitoring and Investigation Plans is 1/8/88. NRC plans to submit comments on the Consultation Draft SCPs 3-4 months after they are issued, and to participate in consultation workshops within this comment period. A revision to Reg. Guide 4.17, "Standard Format and Content of Site Characterization Plans for High-Level Waste Geologic Repositories", was published in March '87. DOE has provided NRC staff and state and Tribal representatives with a few draft chapters of the SCP.
11. Section 114(a)(1)(E)-DOE submits to the President and the public the Commission's preliminary comments concerning sufficiency of at-depth SCA and waste form proposal for inclusion in application.	Prior to 13. below	Prior to 13. below	NRC must provide preliminary comments on whether the at-depth site characterization analysis and waste form proposal is sufficient for inclusion in the DOE construction authorization application.
12. Section 114(a)(1)(D)-DOE's final Environmental Impact Statement (EIS) on the first proposed repository must include comment from NRC on the draft EIS	Prior to 13. below	Final EIS 7/91 (10/94) ¹	NRC must review and comment on the draft EIS, which is scheduled to be issued 1/91 (10/93) ¹ . NRC is allowed 3 months for review and comment, but had requested 5 months (in draft PDS comments) to allow for Commission involvement and for consultation with host states and affected Indian Tribes. DOE has retained only the 3 months for draft EIS review and comment, due (1/94). Final EIS scheduled to be issued in 7/91 (10/94) ¹
13. Section 114(a)(2)-President recommends one site to Congress for construction.	3/31/87 (may be extended one year if necessary)	10/91 (1/95) ¹	N/A

¹ Per Mission Plan Amendment, 6/87

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
14. Sections 116(b) and 118(a)-Submission of notice of disapproval by State or Indian tribe (up to 60 days after Presidential recommendation)	5/30/87 (or 5/30/88 if #13 is extended)	12/91 (1995) ¹	N/A; see 15 below.
15. Section 115(g)-Congress may obtain any comments of the Commission with respect to a State/Tribal site disapproval.	Prior to 16. below	Prior to 16. below	NRC must be cognizant of State/Tribal concerns to be able to provide knowledgeable comments to Congress.
16. Section 115(c)-State/Tribal disapproval will take effect unless both Houses of Congress pass resolution of approval WITHIN 90 calendar days of continuous session	About 8/87 (or 8/88 if #13 is extended)	12/91- 2/92 (1995) ¹	N/A; see 15 above.
17. Section 114(a)(3)-Within 1 year after disapproval, the President must recommend an alternative site for the first or a subsequent repository.	8/88 (or 8/89)	1992/1993 (1995/96) ¹	Role similar to initial site recommendation. See events 11-15, above.
18. Section 114(b)-Secretary submits license application (LA) to NRC.	8/87	12/91 (1995) ¹	An NRC licensing proceeding will be initiated on the license.
19. Section 114(c)-NRC must submit status report to Congress.	One year after submittal of the license application and annually thereafter.	12/92 (1996) ¹	NRC must submit an annual status report on the progress of the licensing proceeding to Congress.

¹ Per Mission Plan Amendment, 6/87

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
20. Section 114(d)-Commission must issue decision on construction authorization (CA) for first repository.	1/1/89 or 3 years after application submitted, or 4 years after submittal (if extended)	3/94 (1998) ¹	The 3 year time period for an NRC licensing decision dictates an aggressive program of involvement with DOE and States/Tribes prior to receipt of a license application so as to identify and resolve contentious issues to the maximum extent practicable. Commission will either grant or deny authorization for DOE to begin construction of the first geologic repository. To meet this schedule, a relatively complete, good quality DOE application will be required. In the final PDS, DOE has reduced the statutory assumption on the duration of this action from 36 to 27 months. NRC believes that 36 months for a licensing decision is a very optimistic estimate and has identified various measures by which both NRC and DOE can facilitate the 36 month license review schedule by resolving issues early. Mission Plan Amendment (6/9/87) reinstates the 36 month license review schedule.
21. Section 114(f)- Any EIS prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle will, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository.	At time of construction authorization.	(1998) ¹	NRC staff (Office of the General Counsel) to amend Part 51 to establish what is meant by "to the extent practicable". Proposed Rule is expected by late 1987.
22. Section 112(b)(1)(c)-Secretary must recommend 3 sites for characterization to President for second repository.	7/1/89	Mid-1990s (TBD) ¹	Same as event 8 above. <u>Current Status-</u> DOE issued the Area Recommendation Report (ARR) on 1/16/86, which identified 12 possible second repository sites, subsequently conducted public hearings concerning the second repository. On 5/28/86, DOE announced an indefinite postponement of the Crystalline Project until the need for a second repository can be better assessed. This indefinite postponement is being legally challenged in court by the affected States and Tribes. The Mission Plan Amendment (6/87) discusses the basis for extending the schedule for site specific work on the second repository. In the Mission Plan Amendment, DOE stated that "If affirmative Congressional action is not taken [on the Amendment in FY'87], the DOE will review the more than 60,000 comments received on the ARR issued in January 1986 and prepare a final ARR that identifies potentially acceptable sites for subsequent field work." On 10/1/87, DOE notified the governors of potential second repository states that DOE is resuming review of comments on the ARR.

¹ Per Mission Plan Amendment, 6/87

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
23. Section 114(a)(2)(A)-President must recommend to Congress 1 site, from sites already characterized, for second repository.	3/31/90 (may be extended one year).	TBD	Same as events 10, 11, and 12 above.
24. Section 114(b)-Submission of license application to NRC for second repository.	About 11/90	TBD	NRC will initiate licensing proceeding for second repository.
25. Section 114(d)-Commission must issue decision on issuing construction authorization for second repository.	1/1/92 or (same as 20 above)	TBD	3 year time period for NRC decision dictates an active program of involvement with DOE, States, and Tribes prior to receipt of application to identify and resolve contentious issues to the maximum extent practicable. To meet this schedule, a relatively complete, good quality DOE application will be required.

II. NRC's Role in the Test and Evaluation Facility Program

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
26. Section 213(a)- DOE is authorized but not required to issue T&E facility siting guidelines.	7/7/83	DOE has not announced	<u>Current Status-</u> No guidelines have been issued. NRC will provide the required consultation if and when the guidelines are issued. (See 28 below)
27. Section 216(a)-TEF cooperation and coordination.	None specified		NRC shall assist the Secretary by cooperating and coordinating on any reports under Title II. <u>Current Status-</u> No action taken. DOE planning to make a determination on a collocated TEF in FY87.
28. Section 217(f)(1)-NRC, DOE must conclude written agreement on procedures for T&E facility interaction.	1/6/84	Not scheduled	NRC must work with DOE in developing a written agreement for procedures for review, consultation, and coordination in the planning, construction and operation of the T&E facility. Such an understanding shall also establish the types of reports and other information as the Commission may reasonably require to evaluate health and safety impacts of the T&E facility. <u>Current Status-</u> No agreement has been reached. DOE reported to Congress on 4/6/84 their decision that if a TEF is necessary, it should be collocated, but that the decision on the need for a TEF is being delayed until the program's data needs are better established.
29. Section 217(f)(3)(A)-NRC shall carry out a continuing analysis of the T&E activities to evaluate the adequacy of the consideration of public health and safety issues.	None specified		As provided
30. Section 217(f)(3)(B)-NRC required to report to the Secretary, the President, and the Congress as it deems appropriate.	None specified		As provided
31. Section 217(h)-NRC must concur on decontamination and decommissioning of DOE's T&E facility.	Five years after initial operation		NRC will evaluate DOE's decontamination and decommissioning activities, and concur, if deemed appropriate for a T&E facility not located at the site of repository.

111. NRC's Role for Interim Spent Fuel Storage

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
32. Section 132-The Secretary, the Commission, and other authorized federal officials shall each take such actions as such officials consider necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor.	No specific dates		The Commission will consider which actions are necessary to implement the intent of this provision. (See also Item 38)
33. Section 134-Hybrid procedures are prescribed for hearings on certain applications for licenses for facility expansions of spent fuel storage and transshipments of spent fuel.	No specific dates, but applicable capacity filed after 1/07/83	Final rule published 10/15/85	A proposed rule establishing procedures for expansion of onsite spent fuel storage capacity or transshipment of fuel was published on 12/5/83. Comment period was extended to 2/20/84. A final rule was submitted to the Commission on 7/8/85. <u>Current Status:</u> The Commission approved the final rule on 9/5/85, and the final edited rule was published in the <u>Federal Register</u> on 10/15/85 (50 FR 41662).
34. Section 135(g)-Issuance of NRC proposed rule establishing procedures and criteria for making a determination that onsite storage cannot reasonably be provided at a reactor.	4/7/83	Final criteria published 2/11/85	As provided. A proposed rule was published 4/29/83. Comments received during the public comment period which ended 6/28/83 have been reviewed. final criteria were submitted to the Commission on 11/7/84. The criteria were approved by the Commission on 1/10/85. <u>Current Status:</u> the final rule, 10 CFR Part 53, was published on 2/11/85 establishing procedures and criteria for making NRC's determination that a utility is eligible to contract with for federal Interim storage capacity.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
35. Section 135(a and b)-If the NRC determines that onsite storage cannot reasonably be provided at a reactor by the licensee, DOE may, under certain conditions, provide not more than 1900 metric tons of capacity for storage of spent nuclear fuel from civilian power reactors.		Not specific	NRC will make public health and safety determinations as to the use of any existing DOE facility for spent fuel storage and will license storage in new structures, including modular or mobile spent nuclear fuel storage equipment such as dry casks, as required under this provision of the Act. A Final Rule on "Criteria and Procedures for Determining Adequacy of Available Spent Nuclear Fuel Storage Capacity", 10 CFR Part 53 was published in the Federal Register (50 FR 5563, Feb. 11, 1985).
36. Section 137(a)(1)-Transportation of spent nuclear fuel to a DOE interim away-from-reactor storage facility shall be subject to licensing by NRC and by the Department of Transportation as provided for commercial fuel under existing law.		Not specific	NRC will certify packaging and approve physical security measures for DOE spent fuel transport to a DOE interim away-from-reactor storage facility. (Other DOE spent fuel transportation under the NWPA is exempt from NRC regulation. DOE has expressed a policy decision to comply with NRC transportation regulations for NWPA shipments (NRC/DOE Procedural Agreement, 48 FR 51875). To the extent DOE meets these commitments, NRC's role with DOE's NWPA transportation will be similar to that for commercial transportation.)
37. Section 137(a)(2)-DOE, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation.		Not specific	No direct role.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
38. Section 218(a) and 133-NRC shall by rule establish procedures for the licensing of any technology approved by the NRC for use at the site of any civilian nuclear power reactor. NRC may by rule approve one or more dry spent fuel storage technologies for use at the sites of civilian power reactors without, to the maximum extent practicable, the need for additional site-specific approvals.	Not specific		NRC, using data and information from DOE dry storage demonstration and cooperative programs, will develop regulations to approve dry technology storage at civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site specific approvals by the NRC. On June 17, NRC's Office of Research was requested to initiate a rule-making through amendments to 10 CFR Part 72 to streamline the licensing process for use of spent fuel dry storage casks at reactor sites. A draft Rule is to be published on 3/15/88. The Final Rule is scheduled for 12/20/88.
39. Section 216(a)-Interim Spent Fuel Storage Cooperation and Coordination.	None specified		NRC shall assist the Secretary by cooperating and coordinating on any reports under Title II.

IV. NRC's Role in Monitored Retrievable Storage Program

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
40. Section 141(b)(3)-DOE shall consult with the Commission and EPA in formulating the MRS proposal and shall submit their comments on the MRS proposal to Congress along with the proposal	6/1/85	Completed.	NRC consulted with DOE on development of the MRS proposal, and provided comments (SECY-86-9) to DOE on 2/5/86 for submittal with the proposal to Congress soon thereafter. However, legal challenges by the State of Tennessee delayed the submittal of the MRS proposal to Congress. DOE filed an appeal to expedite a decision on the District Court injunction in the 6th Circuit Court of Appeals in Cincinnati, and oral arguments were held on 7/24/86. The 6th Circuit decided in favor of DOE on 11/25/86, but an appeal by Tennessee to the Supreme Court further delayed the issuance of the proposal to Congress. The Supreme Court denied the appeal on 3/30/87. DOE submitted the proposal to Congress on 3/31/87. Congressional hearings took place on May 28 and June 18.
41. Section 141(c)(1)-Submission by Secretary of an environmental assessment with respect to the MRS proposal to Congress.	6/1/85	Completed.	On 2/5/86, NRC staff commented on DOE's MRS proposal which included the EA.
42. Section 141(d)-DOE shall file for license with NRC for MRS.	Subject to Congressional authorization of MRS	Subject to Congressional authorization of MRS	NRC has developed revisions to 10 CFR Part 72 to provide the licensing framework for the MRS, if it should be authorized by Congress. If the MRS is authorized, NRC will review DOE's application and make the necessary licensing determinations. <u>Current Status-</u> The proposed rule on 10 CFR Part 72 was submitted to the Commission (SECY-85-374) on 11/25/85, and a supplement (SECY-85-374A) concerning state/tribal involvement was submitted 3/14/86. Both papers have been approved by the Commission, the Staff Requirements memo was received on 4/21/86, and the proposed revisions were published in the <u>Federal Register</u> on 5/21/86 (51 FR 19106). The comment period closed on 8/25/86, with 196 comments received. The final rule is expected in October 1987.

V. NRC Role in the Low-Level Waste Management Area

(No deadlines were provided in the Act for the LLW management provisions under Section 151).

Provisions

43. Section 151(a)(1)-Commission authorized to establish regulations or other such standards and instructions as it deems necessary or desirable to ensure that each LLW disposal licensee will have adequate financial arrangements for decontamination, decommissioning, site closure and reclamation of sites, structures, and equipment used in conjunction with its LLW disposal.
44. Section 151(a)(2)-If Commission determines that long-term maintenance or monitoring will be necessary at a LLW disposal site, Commission must ensure before termination of the license that the licensee has made adequate financial arrangements. Monitoring will be carried out by the person having title and custody for such following license termination.
45. Section 151(b)-DOE shall have the authority to assume title and custody of LLW and the land on which such waste is disposed of, upon the request of the owner of such waste and land following termination of the license issued by the Commission for such disposal, if 1) the Commission determines that the requirements for site closure, decommissioning and decontamination have been met with pursuant to Section 115(a); 2) that such title and custody will be transferred to the DOE without cost to the Federal government; 3) that Federal ownership and management is necessary, or desirable to protect the public health and safety.

NRC Role

Preliminary work was begun on a rulemaking related to Section 151(a). Discussions were held with the Office of State Programs and the Office of the General Counsel. The Executive Director for Operations terminated the rulemaking on November 5, 1986 until further research could be completed, at which time initiation of the rulemaking would be considered. This rulemaking will be reconsidered in the second quarter of FY '88 after reviewing the overall recommendations of the financial assurance contractor.

May require rulemaking by the Commission and the development of guidance for both existing and new commercial LLW disposal sites. For existing sites, analyses will be required to assess long-term performance; monitoring and long-term maintenance requirements; associated costs; and the programs to review monitoring data to identify the need for mitigative actions.

Likely to require rulemaking/guidance to provide basis for required determinations. Such rulemaking/guidance would require close coordination with DOE which appears to have independent discretion to accept sites following Commission determination.

Provisions

46. Section 151(c)-Adequate financial arrangements for long-term maintenance and monitoring, as well as decontamination and stabilization of special sites must be met in accordance with requirements established by the Commission before DOE may assume title and custody of the waste and the land on which it is disposed.

NRC Role

Similar to event 45 above.

VI. NRC's Role Relating to Other Provisions in the Act

<u>Provisions</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
47. Section 223(b)-By April 7, 1983, DOE and NRC must publish a joint notice in the <u>Federal Register</u> stating that the U.S. is prepared to cooperate and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.	4/7/83 Annual revisions required	Completed 3/30/83, w/annual updates.	NRC will prepare a joint <u>Federal Register</u> notice with DOE and will provide technical assistance to non-nuclear weapon states pursuant to the Act and FR notice. NRC and DOE will update and reissue this notice annually for 5 years, as required. <u>Action Taken</u> : A FR notice was published following coordination with DOE, ACDA, and the State Department on 3/30/83. Annual updates of the notice were published in the <u>Federal Register</u> on 4/6/84, 4/5/85, 4/3/86, and 4/3/87 (52 FR 10792).
48. Section 302(b)(1)(A)-The Commission shall not issue or renew a license to use a utilization or production facility under Section 103 or 104 of the Atomic Energy Act unless the applicant has entered into a waste disposal contract with the Secretary of Energy or the Secretary affirms in writing that the licensee is negotiating in good faith to enter into such a contract. Section 302(b)(1)(B)-The NRC in its discretion may require as a precondition to the issuance or renewal of a reactor license that the applicant shall have entered into an agreement with DOE for the disposal of high-level waste or spent fuel that may result from such a license.	6/30/83	Completed 6/30/83	The final waste disposal contract proposal was published by the DOE in the <u>Federal Register</u> on 4/18/83. All necessary contracts were signed and received by the DOE on or before the 6/30/83 statutory deadline.

<u>Provision</u>	<u>NWPA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
49. Section 303-DOE shall consult with the Chairman of the NRC in conducting a study of alternative approaches to managing construction and operations of all civilian waste management facilities and then DOE is to report Congress.	1/6/84	Action Completed 4/18/85	At the invitation of the Secretary, the Chairman will consult on the "alternative approaches" study. Actions Taken-DOE chartered an Advisory Panel on Alternative Means of Financing and Managing Radioactive Waste Facilities (AMFM) to assist them in conducting the required study. As part of the consultation process, DOE extended the invitation to have an NRC observer attend the AMFM Panel meetings. The Panel held ten meetings between January and November 1984, which were attended by NRC staff observers, and toured DOE waste facilities at Hanford, NTS, and WIPP. Panel held its tenth and final meeting on 11/13-14/84, including a meeting with Secretary Hodel on 11/14/84 to discuss their recommendations and forthcoming report. A final draft of the report received by NRC on 12/5/84 concludes that several organizational forms are more suited than DOE for managing the waste program, and identifies a public corporation as its preferred alternative. The report also recommends adoption of several specific program components which are independent of the type of organization ultimately chosen to handle the program, including an Advisory Siting Council. The Final Draft Report was sent to the Chairman for consultation on 2/19/85. The staff provided comments to the Chairman on 3/8/85. The Chairman transmitted his comments to Secretary Herrington on 3/22/85, which were forwarded to the President along with DOE's recommendations on 4/18/85. DOE recommended retaining the present management structure at least through the siting and licensing phase of the program.
50. Section 306-NRC is required to promulgate regulations or other suitable guidance for the licensing and qualifications of civilian nuclear power plant personnel and submit a report to congress on its activities under this action.	1/6/84	Completed	As provided. The Commission issued a policy statement on 2/7/85, concerning personnel training and qualifications (10 CFR Part 50). This policy statement was published in the <u>Federal Register</u> on 3/20/85. Proposed amendments to Part 55 dealing with <u>simulator training</u> requirements were published in the <u>Federal Register</u> on 11/26/84. <u>Current Status</u> : The final rulemaking package on Part 55 and 3 associated Regulatory Guides was approved by the ACRS on 12/5-7/85, and final Office review has been completed. The final amendment to Part 55 was submitted to CRGR for review on 2/26/86, which recommended several modifications. The edited final rule was approved by CRGR on 3/19/86, and approved by the EDO on 4/17/86. The Commission approved SECY-86-123 with modifications on 10/17/86. Staff resubmitted the final paper (SECY-86-338) to OCM in late 11/86. Commission affirmed paper on 2/12/87. Rule was published in <u>Federal Register</u> on 3/25/87.

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Mr. Abdul J. Alkezweeny
Council of Energy Resource Tribes
Nuclear Waste Policy Act Program
1933 Jadwin - Suite 135
Richland, WA 99352
509/943-5301
CST Nez Perce/Umatilla contractor

Mr. Bill Allen
Environmental Quality
U.S. DOI, Bureau of Indian Affairs
Albuquerque Area Office
P.O. Box 8327
Albuquerque, NM 87198
505/766-3167
FED

Mr. Andrew Avel
DOE/ORO
Technical Services Division
P.O. Box E
Oak Ridge, TN 37831
FTS 626-0844
DOE

Mr. Dick Baker
Repository Technology Program
U.S. Department of Energy
Chicago Operations Office
9800 South Cass Avenue
Argonne, IL 60439
DOE

Mr. Robert Berger

U.S. DOI, Bureau of Indian Affairs
Envir. Services Desk, Code 204
1951 Constitution Avenue, NW
Washington, DC 20245
FED

Mr. Warren A. Bishop
Chairman, Nuclear Waste Policy Board
Washington Department of Ecology
Office of High-Level Nuclear
Waste Management
Mail Stop PV-11
Olympia, WA 98504
206/459-6000
S/T

Mr. Bruce Blanchard
Director
Office of Environmental Project Review
U.S. Department of Interior
Main Interior Bldg., Room 4239
Washington, DC 20246
FED

Ms. Mary L. Blazek
Oregon Department of Energy
625 Marion Street, NE
Salem, OR 97310
S/T

Dr. L. H. Bohlinger
Assistant Administrator
Nuclear Energy Division
State of Louisiana
P.O. Box 14690
Baton Rouge, LA 70898
504/925-4518
S/T

Mr. Stephen Bradhurst
President
Allen Bradhurst Corporation
P.O. Box 1510
245 E. Liberty, Suite 340
Reno, NV 89505
702/323-4141
CST Nye County, Nevada, contractor

Mr. William Burke
Nuclear Waste Project Manager
Confederated Tribes of the
Umatilla Indian Reservation
P.O. Box 638
Pendleton, OR 97801
503/276-3018
S/T

Ms. M. J. Byrne
U.S. Department of Energy
OCRWM
RW-10
Washington, DC 20585
DOE

Ms. Ellen Caywood
Associate Coordinator
Washington State Institute for
Public Policy
Seminar Bldg.
Evergreen State College
Olympia, WA 98505
206/866-6000 X6454
S/T

Ms. Gail Chehak
National Congress of
American Indians
804 D Street, NE
Washington, DC 20002
NPI

Mr. Michael E. Christensen
Director
Utah High-Level Nuclear Waste Ofc.
355 West North Temple
3 Triad Center, Suite 330
Salt Lake City, UT 84180-1203
801/538-5545
S/T X

Ms. Lillian Cuoco
Fried, Frank Law Firm
1001 Pennsylvania Ave., NW
Suite 800
Washington, DC 20004-2505
342-3331
S/T Nez Perce attorney

Mr. Richard W. Donovan
Reg. Assistance Committee Chairman
Federal Emergency Management Agency
Region X, Federal Regional Center
130-228th Street, SW
Bothell, WA 98021
FTS 390-4693
FED

Mr. Neal Duncan
Public Affairs Specialist

U.S. Department of Energy
Office of Policy & Outreach (RW-43)
Washington, DC 20585
586-2838
DOE

Mr. Ben Easterling
U.S. Department of Energy
RW-42
Washington, DC 20585
586-2280
DOE

Ms. Margaret Federline
Ass't to Commissioner Carr
NRC/DCM
Mail Stop H-1149
NRC

Ms. Barbara Foster
National Conference of
State Legislatures
1050 Seventeenth Street, Suite 2100
Denver, CO 80265
303/623-7800
NPI

Mr. James Friloux
Program Manager
Louisiana Dept. of Envir. Quality
Nuclear Energy Division
P.O. Box 14690
Baton Rouge, LA 70898
504/925-4518
S/T X

Mr. Robert Gamble
Roy F. Weston
955 L'Enfant Plaza, SW
Washington, DC 20024
646-6758
DOE DOE contractor/handles DOE mtg recording

Mr. John Gervers
President
Latir Energy Consultants
Box 126-B, Route 7
Santa Fe, NM 87505
CST Consultant to LA

Ms. Janet Gorn
NRC/GPA/CA
Mail Stop H-1159
NRC

Mr. Kevin Gover
Gover and Stetson
1225 Rio Grande Blvd., NW
Suite C
Albuquerque, NM 87104
S/T Nez Perce attorney

Mr. John W. Green
Mississippi Department of
Energy and Transportation
300 Watkins Building
510 George Street
Jackson, MS 39202
601/961-4733
S/T X

Mr. Fred Haag
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223
518/474-5541
NPI

Mr. Ronald T. Halfmoon
Manager
Nez Perce Indian Tribe-NWPA
P.O. Box 305
Lapwai, ID 83540
208/843-2253 Ext 331
S/T X

Mr. Richard A. Hannon
Department of Transportation
Ofc of Hazardous Materials Transp.
400 7th Street, SW
Washington, DC 20590
FED

Mr. Charles Head
U.S. Department of Energy
Office of Geologic Repositories
RM-24

Washington, DC 20000
DOE

Mr. Dan Hester
Fredericks & Pelcyger
1881 Ninth Street
Suite 216
Boulder, CO 80302
303/443-1683
S/T Umatilla attorney

Ms. Susan L. Heston
U.S. Department of Energy
Salt Repository Project Office
110 North 25 Mile Avenue
Hereford, TX 79045
806/374-2320
DOE

Ms. Elise Heumann
NMSS Program Analyst
NRC/ARM
MNBB-12217
Ext. 29804
NRC

Mr. Robert Holden
National Congress of
American Indians
804 "D" Street, NE
Washington, DC 20002
546-9404
NPI

Ms. Nancy E. Hovis
Cockrill, Weaver, and Bjur, P.S.
316 N. 3rd Street
P.O. Box 487
Yakima, WA 98907
509/575-1500
S/T Yakima attorney

Mr. Terry Husseman
Program Director
Washington Department of Ecology
Office of High Level Nuclear
Waste Management
Mail Stop PV-11
Olympia, WA 98504
206/459-6670
S/T X

Mr. Russell Jim

Nuclear Waste Project Manager
Yakima Indian Nation
Confederated Tribes and Bands
P.O. Box 151
Toppenish, WA 98948
509/865-5121 Ext 393
S/T X

Mr. Stephen H. Kale
Associate Director
U.S. Department of Energy
Office of Geologic Repositories
RW-20
Washington, DC 20585
DOE

Mr. James P. Knight
Director
U.S. Department of Energy
Siting, Licensing, & QA Division
RW-24
Washington, DC 20585
DOE

Ms. Janet Kotra
Asst to Commissioner Bernthal
NRC/OCM
Mail Stop H-1149
Ext. 43290
NRC

Mr. Steven P. Kraft
Director, Utility Nuclear Waste
Management Group
Edison Electric Institute
1111 Nineteenth Street, NW
Washington, DC 20036-3691
NPI

Mr. Dean M. Funihiro
Regional State Liaison Officer
NRC Region V
FTS 463-3714
NRC

Dr. John T. Larkins
Special Assistant to Chairman Zech
NRC/OCM
Mail Stop H-1149
Ext. 41485
NRC

Ms. Judy Leahy
U.S. Department of Energy
Office of Geologic Repositories
RW-23
Washington, DC 20585
DOE

Mr. George Lear
NRC/NMSS/PMDA
Mail Stop 958-SS
Ext. 74072
NRC

Mr. Darrell Lee
GAO Evaluator
U.S. Department of Energy
Room E 178
Washington, DC 20545
FED

Mr. Cecil Lewis
Park Ranger
U.S. DOI, National Park Service
Rocky Mountain Regional Office
P.O. Box 25287
Denver, CO 80225
FED

Mr. Roland Lickus
Regional State Liaison Officer
NRC Region III
FTS 388-5666
NRC

Ms. Maria Lopez-Otin
Assistant to Commissioner Roberts
NRC/OCM
Mail Stop H-1149
Ext. 41459
NRC

Mr. Robert R. Loux
Director

Nevada Nuclear Waste Project Office
1802 North Carey Street
Capitol Complex Suite 252
Carson City, NV 89710
702/885-3744
S/T X

Mr. Jim Mecca
U.S. Department of Energy
Richland Operations Office
BWI Project Office
825 Jadwin Avenue
Richland, WA 99352
DOE

Dr. Vietchau Nguyen
EWA, Inc.
133 First Ave., N.
Minneapolis, MN 55401
612/332-0000
CST Yakima consultant

Mr. Phillip A. Niedzielski-Eichner
Executive Director
Waste Deposit Impact Committee
Deaf Smith County
201 E. Park Avenue
P.O. Box 2277
Hereford, TX 79045
806/364-4445
S/T

Mr. Gene Nodine
Moab District Manager
U.S. DOI, Bureau of Land Management
Moab District Office
P.O. Box 970, 125 W. 2nd Street
Moab, UT 84532

FED

Mr. James I. Palmer
State Liaison Officer
State of Mississippi
P.O. Box 139
Jackson, MS 39205
601/359-3100
S/T

Mr. Pete Parry
Superintendent
U.S. DOI, National Park Service
Arches, Canyonlands, Nat'l Bridges
446 South Main
Moab, UT 84532

FED

Mr. Michael Phillips
Union of Concerned Scientists
1616 P Street, NW, Suite 310
Washington, DC 20036
NPI

Mr. Allen V. Pinkham
Chairman
Nez Perce Tribal
Executive Committee
P.O. Box 305
Lapwai, ID 83540
S/T

Mr. Max Powell
U.S. Department of Energy
Richland Operations Office
BWI Project Office, Room 574
P.O. Box 550
Richland, WA 99352
DOE

Ms. Lidia Roche
NRC/EDO
Mail Stop MNBB-6219
Ext. 28297
NRC

Mr. Wyatt M. Rogers
Senior Project Engineer
Council of Energy Resource Tribes
1580 Logan Street, Suite 400
Denver, CO 80203
303/832-6600
CST Nez Perce/Umatilla contractor

Mr. Jerome Soltzman
Acting Director
U.S. Department of Energy
Ofc. of Policy & Outreach (RW-40)
Washington, DC 20585
586-2277
DOE

Mr. Gary Sanborn

Regional State Liaison Officer
NRC Region IV
FTS 728-8267
NRC

Mr. Frank Scanlon
Deputy Attorney General
Tennessee Attorney General's Office
450 James Robertson Parkway
Nashville, TN 37219-5025
615/741-7403
S/T

Ms. Debra Shults
Tennessee Health Department
Division of Radiological Health
150 Ninth Ave., North
Nashville, TN 37219
615/741-7812
S/T

Mr. John Siegel
Atomic Industrial Forum, Inc.
7101 Wisconsin Ave.
Bethesda, MD 20814
NPI

Mr. Robert D. Siek
Director of Technical Services
Council of Energy Resource Tribes
1580 Logan Street
Suite 400
Denver, CO 80203
303/832-6600
CST Nez Perce/Umatilla contractor

Mr. Danny Smith
Acting Director
Office of the Governor
Nuclear Waste Programs Office
P.O. Box 12428
Austin, TX 78711
512/463-2198
S/T X

Mr. Charles Smith
U.S. Department of Energy
Division of Program Integration
RW-43
Washington, DC 20585
DOE

Mr. Ben Smith
Tennessee Dept. of Health & Environment
C1-129, Cordell Hull Bldg.
Nashville, TN 37219
615/741-5782
S/T

Mr. Ralph Stein
Director
U.S. Department of Energy
Engineering & Geotechnology Div.
RW-23
Washington, DC 20585
DOE

Mr. David Stevens
1621 South Eastside Street
Olympia, WA 98501
CST Yakima & TX consultant

Mr. David Stewart-Smith
Oregon Department of Energy
625 Marion Street, NE
Salem, OR 97310
503/378-3187
S/T X

Mr. Jerry Szymanski
U.S. Department of Energy
Nevada Operations Office
Waste Management Project Office
P.O. Box 98518
Las Vegas, NV 89193-8518
DOE

Mr. Dean Tousley
Harmon, Weiss
2001 S Street, NW
Suite 430
Washington, DC 20009
328-3500
S/T Yakima attorney

Mr. Robert E. Trojanowski
Regional State Liaison Officer
NRC Region II

FTS 242-5597
NRC

Ms. Carol White
Federal Affairs Coordinator
State of Tennessee
309 John Severe Ofc. Bldg.
500 Charlotte Ave.
Nashville, TN 37219
615/741-1676
S/T X

Mr. Del T. White
Chairman
Nuclear Waste Subcommittee
Nez Perce Tribe
P.O. Box 305
Lapwai, ID 83540
S/T

Mr. Frank Young
NRC/GPA/SLITP
Mail Stop AR-5037
NRC