

NRC/DOE AGREEMENT IN PRINCIPLE  
FOR TRANSFER OF NRC RESTRICTED RELEASE SITES TO DOE  
AS AUTHORIZED UNDER SECTION 151(b) OF THE NUCLEAR WASTE POLICY ACT

BACKGROUND AND JUSTIFICATION

Section 151(b) of the Nuclear Waste Policy Act of 1982 (NWPAA) authorizes the U.S. Department of Energy (DOE) to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of upon request of the owner of such waste and land and following termination of the license issued by NRC for such disposal, if the Commission determines that:

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a) (i.e., financial arrangements);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

If DOE assumes title and custody, DOE will maintain the waste and land in a manner that will protect the public health and safety, and the environment.

The Commission has requested the NRC staff to seek a Memorandum of Understanding (MOU) with DOE that provides a process and criteria for site transfer, as authorized under Section 151(b) of NWPAA.

For the NRC staff, long-term control, including institutional control, is a key issue to resolve, to make progress with remediation and successful license termination at some sites. The NRC staff's view is that after license termination, Federal ownership and control may be necessary for long-term protection of the public health and safety and the environment, particularly for those sites with long-lived radionuclides. Federal control may be the only available option for long-term control if local or State governments are unwilling to accept the responsibility and if private arrangements are considered not sustainable over the long-term needed for sites with long-lived radionuclides (i.e., up to 1000 years).

This is an issue that is important to address at this time because there are sites where the NRC staff has started its review of a the licensee's decommissioning plan and preparation of a draft Environmental Impact Statement. Plans for long-term controls (including institutional controls

and financial assurance) as well as engineering controls must be addressed at this point in time. Interactions between DOE and NRC under an MOU will ensure effective communication between our agencies, will keep DOE apprized of the issues associated with site remediation and long-term stewardship, and will provide a mechanism for DOE to contribute its expertise early in the review process.

The NRC staff also believe that the long-term control expertise and sustainability that DOE could provide for these sites is in the Nations's interest because of the need for long-term protection of public health and safety and the environment. Furthermore, the restricted release option may be the only financially viable option for some licensees who do not have funds available for the very high cost of offsite disposal of large volumes of waste. This option may, in some cases, help avoid licensee bankruptcy and the potential need for Federal funding of remediation. In addition, this option could facilitate the decommissioning process and release large portions of sites back to the local communities for unrestricted use.

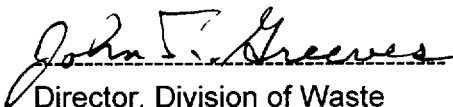
#### PURPOSE

The purpose of this Agreement in Principle is to document the general agreement, at the NRC and DOE staff level, to seek development of an MOU and use it to make determinations regarding potential transfers of sites to DOE as authorized in Section 151(b) of NWPA.

#### AGREEMENT

DOE and NRC staff will seek to develop an MOU that would define the criteria and process that each agency would use to make determinations regarding the potential transfer of a site consistent with the Section 151(b) of NWPA. Activities and responsibilities would be identified for each step in the process. The approved MOU would be signed by NRC's Director of Nuclear Material Safety and Safeguards and DOE's Assistant Secretary of Environmental Management.

#### APPROVAL SIGNATURES

  
\_\_\_\_\_  
Director, Division of Waste  
Management, NRC

3/16/01  
Date

  
\_\_\_\_\_  
Deputy Assistant Secretary, Office of  
Science and Technology, DOE

3/15/01  
Date