



Organization of Agreement States

Robert Quillin, Chair
Richard A. Ratliff, P.E., Past Chair

Roland Fletcher, Chair-Elect
Thomas Hill, Secretary

October 21, 1996

U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Sirs:

As you know, there are currently 29 states that have entered agreements with the NRC under Section 274 of the Atomic Energy Act of 1954. The agreement state program is an excellent example of the ability of states to conduct regulatory programs in an effective and efficient manner. The Organization of Agreement States (OAS) provides a vehicle for Agreement States to interact on common issues that affect individual states or all 29 Agreement States.

The OAS has received comments from individual Agreement States on the Direction Setting Issue Papers issued as part of the NRC's Strategic Assessment of Regulatory Activities. These comments have been summarized for each of the Direction Setting Issue Papers and are attached for consideration in this matter. Many of the individual Agreement States will provide state specific comments as well.

If you have any questions, please contact me.

Sincerely,

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Department of Health
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Organization of Agreement States

Comments on

U.S. NRC Strategic Assessment and Rebaselining Initiative

Direction Setting Issue Paper #5

"Low-Level Waste"

INTRODUCTION:

The basic question asked by NRC was: "What should be the role and scope of NRC's low-level radioactive waste program?"

Six options were provided for consideration. These options were:

- (1) Assume a Greater Leadership Role
- (2) Assume a Strong Regulatory Role in the National LLW Program
- (3) Retain Current Program
- (4) Recognize Progress and Reduce Program
- (5) Transfer LLW Program to EPA
- (6) Accept Assured Long-Term Storage

Agreement states that provided comments to this issue paper included Texas, Washington, Colorado, Illinois, Tennessee, and Utah.

SUMMARY OF STATE COMMENTS ON THE PROPOSED OPTIONS:

Option 1: Assume a Greater Leadership Role

Five states were opposed to NRC assuming a greater leadership role from outright opposition to the belief that it is not desirable that NRC as a regulatory agency should promote new disposal capacity (this should be advocated by the licensees needing capacity). There is also opinion indicated NRC does not need to advocate disposal capacity, waste disposal demand will make such a determination. One state believed that NRC should assume a leadership role as a strong advocate for new disposal capacity. One mechanism for doing this would be to establish a strong regulatory stand regarding the storage of low-level waste.

Option 2: Assume a Strong Regulatory Role in the National LLW Program

All states were opposed to NRC assuming a strong regulatory role that encompassed all low-level waste activities. Three states questioned the need for an enhanced staff to "await" receipt of a low-

level waste facility application. Other states indicated that NRC should continue in a variety of tasks including topical report reviews, guidance documents, report reviews, storage of low-level waste, training, oversight of developing technologies, and regulatory program reviews but there was no consensus on how these tasks should be prioritized. Most commenting states felt that states involved in low-level waste management programs, including those with existing sites, were doing an adequate job in protecting the environment and the public. One state indicated that some functions are not needed now such as further low-level waste rulemaking. Another state indicated NRC might justify the existence of a strong program by accepting the regulatory responsibility for DOE's low-level waste.

Option 3: Retain current program

States were somewhat split between options 3 and 4 being the appropriate role for the national low-level waste program. States tended to believe that this role was more appropriate than options 1 and 2. This option indicated that NRC would do activities that were "legislatively required or significantly contribute to the national low-level waste program." However, some states felt that NRC had gone beyond this mandate such as in the development of a Branch Technical Position on Performance Assessment. Another argument for having "some" level of program was to ensure national consistency in the low-level waste program.

Option 4: Recognize Progress and Reduce Program

Two states indicated that NRC should declare victory and reduce the program. This was the preferred option of one state. This is based on that progress has been made in siting new facilities and states with sites appear to be adequately protecting the public. Two states with low-level sites had mixed views relating to a reduction of the program. There were questions relating to "how much" of the program would be reduced. One state indicated it could survive even if the national low-level waste was completely eliminated.

Option 5: Transfer LLW Program to EPA

Four states are strongly opposed to any transfer of the low-level waste program to EPA. The recommendations range from strongly against to not acceptable for many reasons. Some of these include the disruption to state programs and siting efforts, diminution of expertise in the originating agency, lack of depth and support in the receiving agency, and the shifting of the financial burden from one agency to another.

Option 6: Accept Assured Long-Term Storage

Four states are strongly opposed to the storage concept. One state is very critical and suspect of this option. Two states point to the failure of the high level waste program to sell assured storage with the Monitored Retrievable Storage (MRS) program. Another state indicates that it does nothing but delay the inevitable use of disposal. Two states recognize there may be some merit in assured long-term storage. However, one state recognizes some of the barriers that need to be overcome such as the public distrust of NRC regulation of radioactive materials and the need for

financial assurance for storage facilities. Further, the state suggests that limited licenses or moratoriums on new licenses for storage could force the issue.

STATE COMMENTS ON DISCUSSION AND SUBSUMED ISSUES

Agreement State comments regarding the options and other issues discussed in DSI-5 are attached by and identified by individual state.

CONCLUSIONS:

1. A majority of commenting Agreement States oppose Options 1 and 2 whereby NRC takes a stronger role in siting and regulatory functions;
2. A majority of commenting Agreement States believe a national low-level waste program rest somewhere in Options 3 and 4. This is consistent with the results obtained through public comment associated with SECY 95-201.
3. A majority of commenting Agreement States believe that transfer of the program to EPA is not a viable option; and
4. A majority of commenting Agreement States believe that assured long-term storage is not the answer in helping to resolve the low-level waste problem.

STATE OF COLORADO COMMENTS ON DSI-5

COMMENTS ON NRC'S DIRECTION SETTING ISSUE PAPERS

DSI 5: LOW-LEVEL WASTE

1. Page 12 states that disposal is desirable, and that NRC should "strongly support development of additional disposal capacity." There is no justification as to why NRC is need to develop more capacity. Further, it is not desirable for a single agency to both promote an activity and to try to regulate it. This was one of the problems with the AEC. Licensees who need capacity should be the advocates.
2. Page 15 questions how NRC could review a LLW application if it reduces its LLW program. They can do the same thing Agreement States did when they identified a need - gear up or contract out. There is no justification to maintain staff just incase NRC receives a license application.
3. Disagree with the Commission's preliminary view. NRC should declare viceroy and reduce the program (Option 4). States that have LLW sites appear to be adequately protecting public health. Other states are making progress at opening up new capacity. NRC's involvement, while maybe beneficial, in the overall reevaluation of needs and funding, is hard to justify. Further there is merit in recognition of Long Term Storage, particularly for some types of waste (Option 6). This should be pursued.

STATE OF ILLINOIS COMMENTS ON DSI-5

Organization of Agreement States

Comments on

U.S. NRC Strategic Assessment on Low-Level Waste

Direction Setting Issue Paper #5 "Low-Level Waste"

Summary

The Direction Setting Issue (DSI)--"What should be the role and scope of the NRC's low-level radioactive waste program?"

The Department strongly recommends selection of Option 4--Recognize Progress and Reduce Program--rather than the Commission's preferred Option 2--Assume a Strong Regulatory Role in the National Program.

Specific Comments

NRC proposed six options to address this DSI. The document reports that the Commission's preliminary preference is Option 2--Assume a Strong Regulatory Role in the National Program. The Department strongly recommends selection of Option 4--Recognize Progress and Reduce Program--for reasons detailed below in our discussion of each of the options. Our recommendation for Option 4 is consistent with the Department's recommendation in our letter of December 5, 1995, to Mr. James E. Kennedy in response to SECY-95-201--Alternatives to Terminating the NRC LLW Disposal Program (State Agreements Program Information Letter SP-95-172). In addition, some of the concerns that follow were addressed in our letter to the Honorable Chairman Shirley Ann Jackson in our letter of September 23, 1996, concerning our comments on the Advisory Committee on Nuclear Waste's view of what constitutes an adequate LLW program.

Option 1: Assume a Greater Leadership Role

The Department has long questioned the need for much of the activities of the NRC's LLW Program, and is therefore opposed to any assumption of additional responsibilities in this area. The Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) makes each state, either by itself or in cooperation with other states, responsible for providing for disposal of LLW generated within the state. The states are making progress on licensing new disposal facilities and LLW generators throughout most of the country currently have access to disposal facilities and will continue to for many years to come. A greater leadership role for the NRC in this area would be inappropriate, would interfere with the states' efforts to fulfill their congressionally mandated responsibilities and would require an increase in NRC expenditures. This option should not be given any serious consideration as it is clearly inconsistent with the NRC rebaselining effort.

Option 2: Assume a Strong Regulatory Role in the National LLW Program

The Department strongly recommends that the NRC not choose this option. As stated above, the states have the responsibility to provide for disposal of LLW generated within the state and they are fulfilling their responsibilities. It is very unlikely that the NRC will ever be involved in the licensing and regulation of a LLW disposal facility; therefore, it appears irresponsible and wasteful for the NRC to seriously consider expansion of their current program. The discussion for this option states that "Under this option, NRC staff would perform a wide variety of technical and regulatory functions to further the development of new facilities and develop new technologies." Industry has developed technological enhancements to their systems and recycling capabilities that have resulted in a significant reduction in LLW volume and resulted in improvements in LLW stability and form. This is an appropriate role for industry and the NRC licensees should not be forced to pay fees for government to waste valuable resources pursuing technological improvements that industry can develop on their own without government interference. LLW is currently being stored and disposed in a manner that is protective of public health, safety and the environment, and an increase in the NRC's efforts in this area is unnecessary and undesirable.

Option 3: Retain Current Program

The current program is a more appropriate role for the NRC LLW Program than the previous two options. The discussion states that this option "limits the Program to only those actions that are legislatively required or significantly contribute to the national LLW disposal program would be performed." This is all the NRC's LLW Program should ever have been concerned with in the past. NRC has recently reduced the LLW Program to perform only these functions. It appears very appropriate and the Department repeatedly objected to activities performed by the LLW Program in the past that clearly exceeded their responsibilities. As well-intentioned as these additional efforts were (e.g., Branch Technical Position on Performance Assessment), they were unnecessary, wasted valuable resources and only serve to undermine the ongoing efforts of the states to fulfill their LLW Program responsibilities.

Option 4: Recognize Progress and Reduce Program

The Department strongly recommends that this option be the preferred NRC option. This option would formally recognize that the objectives of the LLRWPA have been largely fulfilled, almost all generators have access to permanent disposal facilities and development of new facilities is progressing in several states. This would allow the NRC to use their limited resources in appropriate areas of their agency and terminate the expenditure of unnecessary activities in the LLW Program. In addition, some of the savings realized from the reduction of the LLW Program should be used to provide for training, travel and technical assistance for Agreement State personnel.

Option 5: Transfer LLW Program to EPA

The Department recommends strongly against this option. Transferring the LLW Program

responsibilities would only serve to shift the financial burden to another federal agency while requiring legislative changes and a concomitant increase in training for the EPA personnel. This option should not receive any further serious consideration.

Option 6: Accept Assured Long-Term Storage

The Department has been very critical and suspect of the Assured Storage concept. Many questions such as the source of funding for the ultimate disposal of the assured storage LLW must be answered before this concept can seriously be considered. As the Department stated in a presentation to the NRC's Advisory Committee on Nuclear Waste on August 22, 1996, in reference to the subject of Assured Storage, "As if to yet further the degradation of our credibility, there are some among us that propose a LLRW management solution (Assured Storage) that insultingly begs the public to accept an argument that what looks like disposal, is built like disposal, is monitored like disposal, and costs as much if not more than disposal is actually something other than disposal." This option should not receive any further consideration at this time.

In the DISCUSSION section, several questions are raised. The Department provides the following comments regarding the questions.

1. Should NRC advocate development of additional disposal capacity in the U.S.?

The NRC does not need to spend additional resources advocating the development of additional disposal capacity in the U.S. The states are fulfilling their responsibilities in this area and the NRC should be supportive of these efforts; however, this is a state responsibility and federal resources should not be spent advocating additional disposal capacity. The Department agrees with the portion of the discussion that states "although additional capacity is needed to assure disposal for decades to come, the existing disposal facilities and LLW management techniques have provided a cushion in the schedules. This view suggests that although the NRC should support the development of new capacity, strong support is not essential."

2. What actions could NRC take to foster the development of additional disposal capacity and how much of a difference would these actions make?

Such actions should be minimal, such as the example in the text where the NRC responded to the National Academy of Sciences request concerning the amount of plutonium that the Ward Valley facility would receive. The NRC should be able to respond to congressional inquiries on LLW program issues and be able to support states efforts when called upon to do so by other parties. No additional rulemaking should be considered and the Department is strongly opposed to the discussion concerning this question which states that "Increased NRC assistance could help Agreement States promptly detect any weaknesses in LLW programs early and resolve difficult technical issues." Since the NRC has decided to bill states for technical assistance, most states will rarely, if ever, request such technical assistance from the NRC. The states can obtain technical assistance, if needed, from other states that have experience in LLW licensing and inspection matters and their contractors at a minimal or no charge basis. This is the fundamental

principle of the states being partners in their efforts to ensure that the public health and environment are protected from unnecessary exposure to radiation throughout the U.S. This partner or co-regulator principle appears difficult at times for the NRC to share with its Agreement State brethren.

3. If NRC chooses not to take actions to advocate new disposal capacity, what should NRC do?

Essentially as described in Option 4. The Department agrees with the narrative discussion concerning a smaller LLW Program option. The Department agrees with the following arguments contained in the discussion:

The NRC is not expected to receive a license application for a new facility for at least the next 5 years.

The regulatory framework of guidance and regulations for LLW disposal is in place and essentially completed. Agreement States have compatible regulations and use NRC's guidance.

Agreement States with license applications under review have mature LLW program organizations and staffs.

DISCUSSION OF SUBSUMED ISSUES

1. If NRC chooses to reduce its LLW program, what should be NRC's approach for retaining technical competency and capabilities to review a license application for a new low-level waste disposal facility from a Non-Agreement State?

The Department agrees with the discussion that in this unlikely event the NRC staff would be available from decommissioning and other waste management programs. The NRC notes that this staff would likely need additional training. As good co-regulators, Agreement States could assist in this training based on their extensive training and experience in the proper regulation of LLW disposal facilities.

2. If NRC chooses to reduce its LLW program, how should the NRC posture itself to assure that technically competent and knowledgeable staff are available to respond to States' requests for technical assistance on difficult and controversial LLW disposal issues?

Since the NRC has chosen to charge their co-regulators for technical assistance, most states will probably not ask for NRC's technical assistance. As stated earlier, technical assistance in the future can be obtained from other states that possess experience in regulating LLW disposal facilities and their contractors. Also, states can resolve their technical issues through the use of the Conference of Radiation Control Program Directors, Inc. and their many Working Groups and Committees such as the E-5 Committee on Low-Level Radioactive Waste.

3. Should the NRC proceed to promulgate final guidance on performance assessment of LLW disposal facilities?

The Department has repeatedly recommended in numerous letters to the NRC that this effort should cease immediately. The Department stated in its letter to the NRC on December 5, 1995, to Mr. James E. Kennedy that "the NRC realize immediate savings by ceasing all work on the draft Branch Technical Position on Performance Assessment. This recommendation is consistent with our previous comments as the Department contends this guidance is ill-conceived and serves no benefit to the individual states responsible for licensing a LLRW disposal facility." The Department still contends that some of the monies saved from terminating this effort be applied to the training, travel and technical assistance for Agreement States.

STATE OF TENNESSEE COMMENTS ON DSI-5

DIRECTION SETTING ISSUE #5

LOW-LEVEL WASTE

Tennessee believes that the NRC should assume a leadership role as a strong advocate for new disposal capacity (Option 1). One mechanism for doing this is to establish a strong regulatory stand regarding the storage of low-level waste (LLW) (Option 2). This requires the NRC to totally abandon its "promotion" role and become a full-fledged radiation control regulator that "allows" the use of radioactive material provided the public, workers, patients, and the environment are adequately protected. It is not the regulators role to promote any use of radioactive material. The acceptance of this concept will help with the perception the public has of the NRC. The requirement that a licensee will not be allowed to store waste beyond a certain period without shutting down and a moratorium on new licenses in areas where there is no disposal capacity could force the issue. Another approach is to require significant financial assurances on accumulating waste (this probably should be done anyway). A recognition that most of the states have gone beyond shallow land burial to enhanced technology for disposal of LLW could lead to a greater acceptance of the "assured storage" concept (Option 6).

STATE OF TEXAS DSI-5 COMMENTS

NRC DSI 5--LOW-LEVEL WASTE

All regulatory programs dealing with radioactive materials should remain in one federal agency. Consistency in approach and standards would be best served by keeping a strong central (and complete) program. Moving the low-level waste (LLW) program to another agency would probably result in a diminution of expertise in the originating agency and a new LLW program which would lack depth and support in the receiving agency.

Even though commercial LLW volume is decreasing, the need remains for safe disposal of all active LLW streams (present disposal capacity seems to be tied to political rather than technical controls). However, it appears that the number of LLW generators could increase because of the general growth of the economy and the development of new technologies using radioactive materials. The need would remain for the NRC to provide training, document review, oversight of developing waste disposal technologies (consolidation with DOE and oversight by NRC of DOE's LLW research efforts would probably save a few federal dollars), and regulatory program reviews. The NRC will not have to advocate new disposal capacity, waste disposal demand will find its own level. The NRC could reasonably justify the existence of a strong program if NRC accepted regulatory responsibility for DOE's LLW.

It would seem that the acceptance of long-term storage for LLW would do nothing for the current long-term storage vs disposal debate except to delay the inevitable use of disposal for LLW.

Except for the need to bring 10 Part 61 dose standards and methodology into compliance with 10 Part 20, keeping the LLW program with NRC should require few, if any, modifications in other federal law.

STATE OF UTAH DSI-5 COMMENTS

STRATEGIC ASSESSMENT ISSUE PAPER

DSI-5 - LOW-LEVEL WASTE

STATE OF UTAH COMMENTS

The basic question asked by NRC was: "What should be the role and scope of NRC's low-level radioactive waste program?"

Option 1: Assume a Greater Leadership Role

This would have NRC becoming a strong advocate for new disposal capacity. This approach is a "day late and a dollar short". The development of new disposal capacity is progressing under the Low Level Waste Act Policy Amendments (LLRWPA) and through efforts of the private sector. The issue paper correctly points to the problems of the California Ward Valley site but fails to recognize that the solution to opening of the site is more of a political rather than solving a particular technical issue. NRC, as a regulator, needs to distance itself from actively promoting any site. Therefore, NRC should not be an active promoter of disposal capacity, that process will take care of itself through states and private sector efforts.

Option 2: Assume a Strong Regulatory Role in the National LLW program

Utah is opposed to NRC assuming a stronger regulatory role in the national LLW program. Under this option, NRC staff would perform a wide variety of technical and regulatory functions to further the development of new facilities and develop new technologies. If this is to come to fruition, NRC would need to hire state staff who have conducted all the licensing and regulatory functions at existing LLW sites to date in order to have any "core expertise" available for this stronger role. It is also optimistic to assume that the NRC has staff expertise in the development of new technologies. This is a role assumed by the private sector and not a role for government. Current federal government initiatives which promote downsizing and delegation to states should be followed since states regulating LLW sites, including Utah, are doing an excellent job in protecting the public and ensuring safety of the sites.

Option 3: Retain current program

In a letter of December 28, 1995 to James Kennedy of the NRC Low-Level Waste program, Utah reviewed several proposed options relating to the status of the national low-level waste program. Utah, as a state that has licensed a low-level site, supported continuation of a baseline program.

It was obvious that licensing would be limited or non-existent for the NRC staff but a core staff could provide some necessary services. Technical assistance to states with low-level sites is an important function. Many times there are technical issues that need an independent verification or regulatory issues needing interpretation that a core group would be of assistance.

Another important aspect is the oversight role of NRC in ensuring that low-level waste programs

of the states are adequate and compatible. Even though, states often complain about the oversight process, a review and verification by NRC that the low-level waste program is operating in a satisfactory manner is an important function. The state review process often provides improvement opportunities for our program and the low-level waste site that is being regulated. In addition to the oversight role, the need for communication between Agreement States, site operators, and NRC is facilitated by annual conferences and workshops developed by the NRC low-level staff. Without that core group, that communication on national low-level waste issues will be diminished. Finally, a core group can address many of the issues of consistency at the national level including the importance of working with other federal agencies that have similar issues of concern.

Option 4: Recognize Progress and Reduce Program

There is recognition that progress has and is being made in the low-level waste facility siting effort. Utah recognizes that our dealings with a low-level waste (and other radioactive wastes) site since 1988 has provided us with a comfort level that decisions relating to low-level and other wastes at the Utah site have and will continue to be valid. In many cases, we would see ourselves as a resource to the national low-level waste program, in some cases we appreciate the validation of our efforts by the national low-level waste program. There has been a reduction earlier to a "base or core" level program, what would be the impact of further reductions. This would be a key question to answer. Utah feels that some "core" level is essential but cannot discern what the full time equivalent position (FTE) numbers should be for the NRC national low-level waste program. In the worst case scenario, Utah could survive without a national low-level waste program.

Option 5: Transfer LLW Program to EPA

Utah believes this option is one that cannot be seriously considered. Utah recognizes that certain expertise rests within EPA in the waste management area and similar experiences exist in the siting and regulation of waste management facilities. However, EPA waste disposal rules are very prescriptive as compared to NRC's performance-based approach. This prescriptive nature, while designed to be preventative in nature, is often a regulators nightmare and a waste facility albatross. Utah's experience with dual regulation of a mixed waste facility enforces this perception. It is highly unlikely that this option could be timely based on strictly the needed legislative fixes.

Option 6: Accept Assured Long-Term Storage

Utah does not favor storage of waste of any type for any long period of time without the proper institution controls. The assured storage concept relies on above ground concrete bunkers to "permanently" store waste until a safer technology than shallow land burial is developed. Many issues would have to be resolved before the public could feel "good" about this option. The argument that assured long term storage facilities are really disposal facilities of a different type would be most difficult to overcome. A prime example of assured long term storage is the high level waste program and the Monitored Retrievable Storage program which has been a dismal

failure.

In conclusion, Utah:

- (1) strongly disagrees with the Commission's preferred option of assuming a strong regulatory role in the national low-level waste program. Does this send a message of concern that states with sites are not adequately protecting the public?
- (2) supports something between Options 3 and 4. In fact, we had perceived this issue was settled after input into SECY 95-201 and were surprised by the Commission's apparent reversal of a previous policy decision.
- (3) encourages NRC to maximize partnering opportunities with states that have existing sites as a benefit for both agencies; and
- (4) submits that NRC should stay out of the siting process and concentrate its effort on the regulatory process.
- (5) is disappointed that NRC did not consider all issues of waste management. Significant issues and differences of opinion exist in the uranium recovery area yet the program was not mentioned as an issue.

Submitted by:

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STATE OF WASHINGTON DSI-5 COMMENTS

Option 1

The NRC should take a leadership role at sites nearing completion. However, since the LLRWPA Act objectives have basically been met, they should not dedicate a lot of effort in this area. The NRC should not pursue disposal at U.S. DOE facilities because such efforts may interrupt the progress that has been made in development of disposal facilities.

Option 2

Since volumes are down and disposal needs are being satisfied, the NRC should continue to provide a variety of technical and regulatory functions, such as topical report reviews, guidance documents, and report reviews. Although many of the duties that the NRC performed in the past are still needed, some are not. LLRW regulations are adequate, so regulation development could be curtailed. Option 2 is ideal, but due to the advancement of technology and reduction of waste volumes, staff levels do not need to be as high as they were prior to program cuts in FY94. 6-7 FTE's should be adequate since some of the expertise could be found in other program areas, such as the review of topical reports and the development of new technology to ensure a reduction in national volumes.

Option 3

Research, topical report reviews, and guidance should be made available to the states through the NRC to ensure consistent standards throughout the industry. The states rely on the NRC to perform these types of reviews, which also helps to ensure consistency. If topical report reviews and research were dropped from the NRC duties, many states would lack the expertise or money to hire consultants to perform such tasks.

Option 4

The NRC should recognize the progress made in the industry. However, the need for additional sites is not as great as it once was. But this option is not valid since it reduces further the duties the NRC currently provides. The NRC needs to be able to provide technical assistance to the states when requested. Failure to do so would compromise the consistency that is now in place in the industry.

Option 5

Transfer of the NRC duties to the EPA is not acceptable. It could be very disruptive to individual state programs and current and future disposal sites. The NRC should continue to be involved in low-level radioactive waste activities.

Option 6

Long-term storage is not the answer; burial is ultimately the best solution. Long-term storage would only delay the need for disposal, and would probably face even greater public opposition as a "delay tactic." In order to proceed with this option, new guidance and criteria would have to be developed, and public acceptance could be a greater issue than at present. Before proceeding with this option, a detailed evaluation of the federal government's efforts to store high-level waste (MRS) should be conducted.

SUMMARY

Options 1, 4, 5, and 6 should be eliminated. Option 2 is the most desirable single alternative, but the staffing level should not be returned to what it was prior to program cuts, since the need for services is less. A combination of options 2 and 3 is actually preferred over any single alternative. If Option 2 should be chosen, and if staffing levels revert to what they were prior to the cuts, perhaps the additional staff could look at the handling, processing, and recycling of LLRW. Staff could participate in the development of volume reduction technology and better waste forms.

ADDITIONAL STATE OF WASHINGTON COMMENTS

Following are additional comments on the strategic assessment of regulatory activities:

Comment #1

It is apparent that the NRC does not see any urgent need in developing new regulations (program is already being reduced), thus in the future available resources *should not be dedicated to new regulations*.

Comment #2

Firm national leadership is necessary in areas that the NRC professes an expertise, such as DOI's concerns at Ward Valley, and to ensure national uniformity of disposal practices. As stated on page 14 of the DSI, the ACNW recommended that the NRC maintain a presence that would contribute to a "consistent, coherent, and adequate national LLW regulatory program." From the outside vantage point there seems to be some federal-state antagonism (i.e., CA can't be trusted) that the NRC may be able to alleviate at the federal level. Additionally, national standards (e.g., waste forms and packaging) need to be maintained as new states/compacts develop new sites, to ensure adequate public safety and protection. Existing sites have mature programs, but new sites will probably have a general lack of expertise and experience and could inadvertently generate policies that are not conservative.

Comment #3

National program activities that are beyond the abilities (manpower and money) of the states/compacts need to be maintained. Examples include review of topical reports when required, waste form guidance in BTP's, performance assessment guidance specific to common waste forms (e.g., solidified liquids, dewater resins, chelates), concrete survival in the disposal environment,

and package degradation curves at disposal sites. Further review of topical reports may not be needed (a lot already exist that are not utilized at our site) unless a breakthrough in technology creates a new super stable waste form. The NRC could act as a national clearinghouse/coordinator for problems (e.g., new waste forms, DOT questions) within the LLW community.

Comment #4

Past site development strategy did not work and additional resources should not be expended in this area (other than CA/DOI dispute). The DSI stated on page 11 (under III.A) that the primary focus of the national program was the development of new disposal capacity. I don't believe that the NRC had any input into Barnwell staying open; and in either case, Barnwell is not new capacity. Nebraska and Texas are still working toward opening, but will probably have several years in court. In the future the NRC should refocus its efforts on technical issues by prioritizing the workload using current FTE levels (e.g., sharing FTE's with other programs as is done at our level).

Comment #5

Under NO circumstances should OPTION #5 (transfer to EPA) be even considered. It would take years and more FTE's than the NRC would save to bring the EPA up to the level that the NRC is at currently. And will the EPA maintain the current set of regulations? NRC ASSUMES this will be the case. Who knows what Congress will legislate if the LLRWPAA is reopened.

Comment #6

Public comments received from Agreement States in response to SECY 95-201 (as stated at the bottom of page 20) were heavily weighted toward Options 3 and 4. It should be noted that the NRC provides a valuable service within the industry. Do the non-sited Agreement States really know the LLW issues (e.g., performance assessment, waste form, waste classification calculations, etc.) that well, and do they have the qualified staff to be able to say that they basically do NOT need the NRC any longer? If other states do have this capability, they will not have it for long (as their budgets get tighter).



DSI-5 ①

NRC STRATEGIC ASSESSMENT AND REBASELINING INITIATIVE

DIRECTION SETTING ISSUE COMMENT FORM

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PLEASE CHECK ONLY ONE:

- ☐ DSI 2 - Oversight of the Department of Energy
- ☐ DSI 4 - NRC's Relationship with Agreement States
- ☒ DSI 5 - Low-Level Waste
- ☐ DSI 6 - High-Level Waste
- ☐ DSI 7 - Materials/Medical Oversight
- ☐ DSI 9 - Decommissioning - Non Reactor Facilities
- ☐ DSI 10 - Reactor Licensing for Future Applicants
- ☐ DSI 11 - Operating Reactor Program Oversight
- ☐ DSI 12 - Risk-Informed, Performance-Based Regulation

- ☐ DSI 13 - Role of Industry
- ☐ DSI 14 - Public Communication Initiatives
- ☐ DSI 20 - International Activities
- ☐ DSI 21 - Fees
- ☐ DSI 22 - Research
- ☐ DSI 23 - Enhancing Regulatory Excellence
- ☐ DSI 24 - Power Reactor Decommissioning
- ☐ General

COMMENT: Attached

300136



DSI3