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The

# Radioactive Exchange®

*To promote the exchange of views and information on radioactive waste management*

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Volume 6 No. 10

May 31, 1987

## **DOE SUBMITS AMENDED HLW MISSION PLAN, ASKS CONGRESS TO ACT ON 1ST SITE DELAY**

It is possible that by the end of this week (May 29) or sometime early next week the DOE will submit to Congress the long-awaited "Amendment to the [HLW Program] Mission Plan" requesting Congressional action: to extend the startup date for the first repository from January 31, 1998 to 2003; to indefinitely postpone site specific work on the second repository; and, to authorize construction of an MRS facility.

In earlier Congressional testimony and in past public statements both Secretary Herrington and Mr. Rusche maintained that Congressional action on the first repository delay was not needed. However, in a "draft" of the transmittal letter that would be forwarded with the Amended Plan to Congress, Mr. Rusche reveals that "the Department's legal position is that Congress must also affirm the Mission Plan Amendment's extended schedule."

In advising the Congress that legislative action is necessary on the three above-cited items, Mr. Rusche in the draft letter obtained by the Exchange initially expresses the "hope Congress will respond to...the Mission Plan directly or provide (See **Mission Plan in the HLW Focus**)

## **TOP LLRW MGMT. DECISION-MAKERS TO ATTEND, SPEAK AT EXCHANGE FORUM**

The **Third Annual Radioactive Exchange Decisionmakers' Forum** (June 16-19 Traverse City MI) is definitely the event not to be missed if you are responsible for LLRW management decisions. Attendees will get the latest update on the status of site developments from top state officials (NY, MA, TX, IL, CA, NC, and PA); hear for the first time the new SC LLRW disposal requirements, and discuss with WA state officials new RCRA certification and liability requirements.

Key managers of major utilities will reveal their near-term and future plans for LLRW processing, and everyone will get the latest info on EPA's LLRW BRC standard, and RCRA requirements, plus be able to question NRC's new LLRW management director.

The Presidents of Chem-Nuclear and US Ecology will be there, as will Congressman Markey, and Ohio Congressman Tom Luken.

The registrants to date represent most all major utilities, senior execs from major national companies, key state and federal officials and major non-utility generators. Registration is still open but only a few places remain! To attend you must act now and call our office at 202-362-9756 to reserve your place!

Edward L. Helminski, Publisher

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202/362-9756

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## **GOVERNOR CUOMO APPOINTS MEMBERS TO LLRW SITING COMMISSION**

On May 26 Governor Mario W. Cuomo appointed members to the State Commission for Siting Low-Level Radioactive Waste Disposal Facilities. Angelo F. Orazio, a former Assemblyman from Nassau County who chaired the Assembly Energy Committee, has been designated chairman. Mr. Orazio also served as a member of the Assembly Special Committee on Nuclear Safety.

Other members of the Commission are Dr. H. David Maillie of Henrietta, Richard N. Wood of Syracuse, Marjory B. Rinaldo-Lee of Freeville, and Dr. Stanley Goldsmith of Port Washington.

Dr. Maillie is an Associate Professor in the Department of Radiation Biology and Biophysics at the University of Rochester. He is a member of the Health Physics Society and has served on the Senior Technical Advisory Board to Argonne National Laboratories in its preparation of an environmental impact statement on the disposal of high level radioactive wastes from the Nuclear Fuels Services facility at West Valley, New York.

Mr. Wood, a certified professional engineer, is Research Projects Director for the combined organization of the Syracuse University Maxwell School of Citizenship's Technology and Information Policy Program and the Syracuse University College of Engineering's Institute for Energy Research. He also serves as a member of the Empire State Electric Energy Research Corporation Nuclear Power Committee and the New York State Low Level Waste Group Executive Committee.

Ms. Rinaldo-Lee is the Chief Hydrogeologist for the Central New York District Office of Empire Soils Investigations, Inc.,- Thomas Associates. She has served as project manager and chief hydrologist on a variety of water supply and groundwater contamination problems, including new landfill site investigations and assessment of groundwater decontamination from major industrial sites.

Dr. Goldsmith is Director of the Andre Meyar Department of Physics-Nuclear Medicine at Mount Sinai Medical Center, and also serves as Professor of Clinical Medicine/Nuclear Medicine at the Mount Sinai School of Medicine. He is a member and past President of the National Society of Nuclear Medicine and the Board of Governors of its Greater New York Chapter, and serves as Associate Editor of the Journal of Nuclear Medicine.

The five-member Commission is responsible for identifying a site and appropriate disposal method for a permanent low-level radioactive waste disposal facility after consideration of all relevant public health and safety, environmental and economic factors. The Commission's site selection must be certified by the Department of Environmental Conservation and the facility itself shall be constructed and operated by the State Energy Research and Development Authority. \*\*

## **MILLION \$ INCENTIVE PACKAGE, STRONG ROLE FOR NY LLRW SITE HOST**

The New York State Department of Environmental Conservation (NYDEC) is recommending a \$9 million plus financial incentive package and the establishment of a strong local host commission to facilitate local government acceptance of a state LLRW disposal facility.

The recommended package, outlined in the recently released report "State Assistance to localities Affected by the Siting of a LLRW Management Facility," identifies five specific categories of net adverse local impacts resulting from the siting of a LLRW disposal facility and then identifies a number of "offsets" that are available to mitigate these impacts. Included in the package of "offsets" is an annual payment to the selected host community "linked to the volume and activity level of the disposed LLRW"; compensation to residential property owners to offset possible decreases in property values due to proximity of the disposal facility; and, a "Host Area LLRW Commission" (HALC) that would be empowered to recommend stoppage of site development or site closure upon

discovery of substantial non-compliance with state regulations.

### **Host Community Compensation**

The recommended host community annual payment would be "no more than five percent of gross operating revenues...or ten percent of the host community's previous year's capital and operating budget, whichever is less." The report estimates this payment would be in the neighborhood of \$200,000 per year from 1993 to 2023. The estimated amount of compensation to private land-owners to make up for property value losses is \$500,000.

In addition to these payments, the financial package includes funds to reimburse the local host community for the possible net adverse impacts to social services that may occur because of a population influx.

### **Strong Local Government Role**

A key and unique aspect of the NYDEC recommended local assistance package is the establishment of the HALC. This local Commission would begin functioning upon site selection and would continue to operate over the 30 year operational lifetime of the facility. In addition to having the **power to recommend** cessation of site development activities or site closure, this Commission is to:

- Convene open public meetings at least monthly up to one year after an operating license is granted;
- Negotiate with the state siting commission on the final content, but not the total dollar value of the offsets package;
- Administer all funds and fees earmarked for host area offsets;
- Serve as the legal representative of the host area before all state agencies and courts of law;
- Maintain consistent contact with all state agencies during the licensing

and permitting, construction, operation, and closure stages to insure that the health and safety and environment of the host area is protected;

- Design and implement a permanent, independent monitoring program to protect host area populations against adverse health, safety and environmental impacts over the life of the facility; and
- Conduct public education and information programs.

To create this Commission new legislation beyond the current state LLRW Management Act would need to be enacted. As proposed it would have the status of a Special Purpose Unit of Government under NY State Law.

Funds to support the operation of the HALC would be provided according to the following schedule: \$100,000 per year from site selection to start up, with \$50,000 per year from startup to closure; \$200,000 for participation in site review; \$50,000 for participation in the state licensing process; \$20,000 per year for three years for monitoring construction; and, \$20,000 per year for emergency preparedness from site selection to startup with \$10,000 per year provided for this purpose during facility operation.

### **Public, Local Participation in Siting**

The recommended package includes funds to support public and local government participation in the site selection process. Up to \$50,000 per community for a maximum of six potential communities is proposed as reimbursement to the local government to cover their expenses for participation in the site selection process.

Copies of the report are available from the NY Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233.  
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## IN THE SOUTHEAST

**South Carolina** officials report that a working agreement with EPA regional officials on RCRA compliance requirements governing the Barnwell site is nearly complete. The state will not require a written certification that a shipment of LLRW to the burial site is "RCRA free" as proposed by the State of Washington (See EXCHANGE, Vol. 6, No. 8). Heyward Shealy of the SC Department of Health and Environmental Control reports that he expects to present the new restrictions at the upcoming **Radioactive Exchange Decisionmakers' Forum, June 16-19 in Traverse City, MI.**

## IN THE MIDWEST

The **Midwest Compact Commission** has recently awarded a contract to Rogers and Associates of Salt Lake City, Utah to complete a financial analysis of a Midwest Regional Disposal Facility. The study is intended to provide the Commission with more detailed financial information on the costs of developing and operating a disposal site. Rogers and Associates has completed similar efforts for the State of Texas, US DOE, and the Electric Power Research Institute. The amount of the contract award is estimated at around \$20,800.

The Commission is still scheduled to meet on June 30th to designate a host state for the regional disposal facility.

## IN THE ROCKY MOUNTAIN WEST

At its scheduled June 22, 1987 meeting, the **Rocky Mountain Board** will discuss the possibility of contracting to accept LLRW from the District of Columbia and Rhode Island.

## IN THE DOE

DOE's "draft" **1986 Annual Report to Congress on LLRW Management Progress** is currently in circulation for review and

comment. The report makes note that only Texas and California have made "substantial progress" in developing LLRW disposal siting plans to meet the 1988 LLRWPA milestone. The report offers no other comment regarding the feasibility of the states and/or compacts meeting the 1988 or subsequent milestones.

The DOE data on LLRW volumes accepted at burial facilities reveals that the Northeast Compact (NJ, CT) sent about 60 percent to Barnwell, and 40 percent to Richland, while the Midwest Compact (MI, WI, MN, OH, IN) buried 39 percent of their region's waste at Barnwell and 61 percent at Richland. The Central Midwest (KY, IL) sent 43 percent to Hanford, 51 percent to Richland and 6.2 percent to Beatty. The only region to use the Beatty facility to any great extent was the Central States which sent 37 percent of their waste to the Nevada facility, in addition to sending 19 percent to Barnwell and about 44 percent to Richland.

The aggregate total waste volumes reported in the draft do not match the data from the disposal site operators and is being corrected.

Sufficient critical comments have been received on DOE's proposed **LLRW Disposal Facility Site Plan Criteria** developed to determine compliance with the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) 1988 milestone that the staff has essentially gone back to the drawing board. The basic criticism was that the criteria were too specific, not allowing sufficient latitude to accommodate individual state or compact approaches to site development. The staff is now in the midst of redrafting the criteria, with the objective of relaxing requirements while trying to maintain sufficient benchmarks to ensure that submitted siting plans are realistic (as opposed to surrealistic). The target date for completion of the final version and issuance in the Federal Register is late summer.

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## REQUEST FOR PROPOSALS

### State of California Department of Health

**LLRW Disposal Site Environmental Impact Report and Environmental Impact Statement (RFP-87-020)** Released May 22, 1987. The CA Department of Health is seeking a contractor with expertise in the preparation of environmental impact reports and statements (EIR/S) to review US Ecology's Environmental Assessments of a proposed state regional disposal facility and all supporting data and documents, develop data, if determined to be necessary, and to prepare an EIR/S for the Department in compliance with the California Environmental Quality Act (CEQA) and NEPA requirements. The Department's goal is to obtain a final EIR/S that meets CEQA and NEPA requirements for licensing a LLRW facility by the termination date of the contract, March 1, 1989.

The contractor selected will be required to:

- Prepare a management plan for DHS approval. The management plan is to include, as a minimum, a description and schedule of work to be accomplished; descriptive narrative of the finished product and other information as may be necessary to demonstrate a plan of action from start to finish that meets the Department's objectives and goal;
- Plan, coordinate, and participate in public meetings/hearings as may be necessary to meet CEQA, NEPA, BLM and Department requirements.
- Review all data and conclusions generated by US Ecology and their consultants on the candidate sites;
- Obtain or develop additional data as necessary, e.g., Bureau of Land Management biological assessment, cultural resources technical report.
- Prepare and deliver to the Department an acceptable draft EIR/S by August 1, 1988 that meets all applicable sections of CEQA and NEPA regulations.
- Respond to all comments, incorporating them into a final EIR/S, as appropriate.
- Prepare and deliver accepted final EIR/S by March 1, 1989 that meets all applicable sections of CEQA and NEPA regulations.

**Proposals must submitted by 4:00 p.m. PDT, on July 6, 1987.** The last day to submit written questions on the RFP is June 2. A Bidder Conference is scheduled for June 5, 1987. For a complete copy of the RFP telephone the CA Department of Health LLRW Program at 916-445-0498 and ask for RFP 87-020. \*\*

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### REPORTS OF NOTE (LLRW)

**The Proceedings of the Oak Ridge Model Conference, February 3-5, 1987** (CONF - 870245); Prepared by the Oak Ridge National Laboratory, Oak Ridge, Tennessee 37831; Available from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; NTIS price codes--Printed Copy: A21 Microfiche: A01.

# Calendar

## June

- 2      **Hearing:** Senate Environment Committee Nuclear Regulation Subcommittee; Oversight HLW Repository Program; State officials and other outside witnesses; Contact: Dan Berkovitz (202) 224-4039.
- 3      **HEARING: Senate Environment and Public Works Nuclear Regulation Subcommittee; Nuclear Material/-Waste Transportation (S. 1008, S. 1269, S. 833);** Contact: Tim Smith or Dan Berkovitz (202) 224-4039.
- 3      **MARKUP: Price-Anderson Reauthorization, HR 1414;** House Commerce, Energy and Power Subcommittee; Contact: Sue Sheriden (202) 226-2500.
- 5      **BIDDERS CONFERENCE: CA Department of Health RFP for contractors to complete LLRW disposal facility EIS;** Contact Don Womeldorf (916) 445- 0498.
- 8      **Annual Meeting:** Central States Compact Commission, Room 157 State Capitol Building, 14th & K Streets, Lincoln, Nebraska; Contact: Kathy Smith (404) 261-7114.
- 9      **MARKUP (May not be held) Price-Anderson Reauthorization;** Senate Environment and Public Works Nuclear Regulation Subcommittee; Contact: Tim Smith or Dan Berkovitz (202) 224-4039.
- 11     **Hearing: House Energy and Power; DOE MRS--Proposal;** Contact: Dave Schooler (202) 226-2500.
- 16-17 **Hearings: Senate Government Ops; Senator Glenn chair; Senator Glenn's bill to establish oversight board over DOE facilities, require EPA regulation DOE hazardous mixed waste;** Contact: Mimi Conway (202) 224-4751.

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16-19 **THE THIRD ANNUAL RADIOACTIVE EXCHANGE DECISIONMAKERS' FORUM -- LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT: FACING THE NEW REALITIES --** Site Development; Long Term Liability; Economics; Public Acceptance. Grand Traverse Village, Valleyview Conference Center, Traverse City, Michigan. Registration: Exchange Subscribers: Prior to May 1 - \$595.00; After May 1 - \$635.00. Non-Subscribers: Prior to May 1 - \$650.00; After May 1 - \$690.00. Contact: (202) 362-9756.

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(Mid) **Hearing: House Energy and Power; Nuclear Waste Program Oversight;** Contact: Dave Schooler (202) 226-2500.

- 18     **Hearing: Senate Environmental Committee Nuclear Regulation Subcommittee; DOE-MRS proposal;** Contact: Dan Berkovitz (202) 224-4039.
- 20     **Public Meeting: Washington State Dept. of Ecology;** Financial Liability Insurance/Assurance Requirements for Hanford LLRW site users: Lacey City Hall, 420 College Street, Lacey, WA; 9:00 a.m. - 12 noon; Contact: Carole Richmond (206) 459-6228.
- 20-21 **Meeting: Annual Meeting Southeast Compact Commission, Social Room, Oak Ridge Civic Center, Oak Ridge, Tennessee;** Contact: Kathryn Visocki (919) 781-7152.
- 22     **Meeting: Rocky Mountain Compact, Jackson Lake Lodge, Moran, Wyoming.** Contact: Leonard Slosky (303) 825-1912.
- 22     **Meeting: Northeast Compact Commission; Holiday Inn Jetport, Elizabeth, NJ, 1:30 p.m.;** Contact: Denise L. Drace (609) 799-1193.

30      **HOST STATE DESIGNATION:** The Midwest Compact Commission is to designate a host state if none of the four candidate states volunteer.

Late     **Release EPA Draft Proposed LLRW Standard.**

## June/July

28-1    **Meeting: "The Critical Path"** (A DOE Low-Level Waste Management technical assistance project on disposal technology selection); Copley Plaza Hotel, Boston, MA; Registration Fee: \$125.00; Contact: Julie Conner (208) 526-0648.

**REGIONAL SITE OPERATOR SELECTIONS:** Central States Compact Commission to Select Regional Site Operator.

## July

6        **DEADLINE: Proposal Submission to CA Dept. of Health to complete LLRW disposal facility EIS; 4:00 p.m. PDT.**

22-24   **Short Course: Packaging and Transportation of Radioactive Waste Material;** emphasizes "hands on" skills in dealing with regulatory compliance, techniques and procedures and disposal facility requirements. Richland, Washington; Fee: \$525.00 (includes a tour of a LLRW disposal facility); Contact: Peggy Thompson, US Ecology Nuclear, 9200 Shelbyville Road, Suite 300, Louisville, KY 40222; (800) 626-5334.

28-30   **Workshop: Radioactive Waste Packaging, Transportation and Disposal;** Sheraton Charleston Hotel, 170 Lockwood Drive, Charleston, SC; Spons: Chem--Nuclear Systems, Inc.; Contact: Jan E. Folk (301) 259-1781 or Tammi Pennington (803) 256-0450.

## August

1        **Proposed Effective Dates: Required Certification** that LLRW shipped to Hanford is non-RCRA regulated; Contact: Elaine Carlin (206) 459-6228.

23-27   **International Conference on Nuclear Fuel Reprocessing and Waste Management;** Paris, France; Spons: ANS/ENS; Contact: L. McClure (206) 526-3083.

24-27   **MEETING: Ninth Annual DOE Low-Level Radioactive Waste Management Conference;** Denver, Colorado; Contact: Marjorie Clearwater, EG&G Idaho, P.O. Box 1625, Idaho Falls, ID 83415 (208) 526-9197.

## September

27-30   **Conference: The Second International Conference on New Frontiers for Hazardous Waste Management;** Westin William Penn Hotel, Pittsburgh, Pennsylvania; Sponsor: NUS Corporation Contact: Debra Wroblewski (412) 788-1080). NUS Corporation, Park West Two, Cliff Mine Road, Pittsburgh, PA 15275.

## October

14-16   **Conference: DOE Oak Ridge Model Conference, Oak Ridge, Tenn;** Subjects: Waste Management, Environmental Protection, and Health and Safety. Contact: Lance J. Mezga (615) 574-7259.

27-29   **Workshop: Radioactive Waste Packaging, Transportation and Disposal;** Sheraton Charleston Hotel, 170 Lockwood Drive, Charleston, SC; Spons: Chem--Nuclear Systems, Inc.; Contact: Jan E. Folk (301) 259-1781 or Tammi Pennington (803) 256-0450.

# **the HLW Focus**

*of the Radioactive Exchange®*

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(Mission Plan from pg. 1)

clarifying language in the budget appropriation." However, in his concluding statement of the "draft" letter he mentions that no legislation was being forwarded to Congress at this time because of the number of bills already under consideration, and notes that DOE is "reviewing a number of [the] bills, including Senate bill 839, and would be pleased, of course, to work with Congress to review the relationship between legislation and the intent of the Mission Plan Amendment." [Editors Note: As of May 28, DOE again changed its mind and will submit a separate bill on the MRS facility to Congress by June 10 (See story below).

## **Changes from "Draft" Amended Plan**

The Amended Mission Plan as will be submitted to Congress includes several changes from the Draft circulated for comment. Included among the changes are the following:

**In The 1st HLW Repository Program.** The exploratory-shaft schedule for the Hanford site is reported as being delayed for about one year due to "changes in the hydrologic testing program." The delay is "attributed to the concern that shaft construction may cause the loss of data pertaining to the local ground-water flow system." According to the Plan, DOE in "consultation with the Nuclear Regulatory Commission and other interested parties, ...has decided that the hydrologic tests to be conducted before the start of exploratory-shaft construction should be far more comprehensive than those planned in developing the schedule report in the draft amendment."

The costs for site characterization are reported as "higher than previous estimates because the program will be of longer duration, because more data will be collected and analyzed and because the studies and tests to be performed have now been determined. Preliminary estimates are that program costs "will increase 10 to 20 percent but that these increases do not presently warrant an increase in the HLW fee."

**In the 2nd Repository Program** As was revealed in earlier testimony (See EXCHANGE, Vol. 6, No. 8), DOE has decided to attach a specific timetable to define its earlier announced "indefinite postponement" of site selection activities for the second HLW repository. The previously announced revised timeline as included in the Amended Plan, is as follows: begin a national survey in 1995; issue a final area recommendation report in 2003; identify potential acceptable sites in 2003; nominate and recommend sites for characterization in 2007; submit license application to NRC in 2017 and begin operation in 2023.

If Congress **does not legislatively** approve this revised schedule the Amended Plan discloses how DOE would resume the current 2nd round program, starting with reviewing the 60,000 or so comments on the Draft Area Recommendation Report and issuing a final area recommendation report in December of '88, recommending sites for characterization in 1997, submitting an NRC license application in 2006 with operation beginning in 2014.

**Local Government Participation** In recognition of continued pressure by local

government officials within the states being considered for location of the first HLW repository, DOE is requesting legislative action that would provide direct local government interaction with the Department and allow for direct payment to units of local government in lieu of taxes. \*\*

#### **DOE TO FORWARD MRS BILL TO CONGRESS BY JUNE 10**

Departing from previous plans not to send specific legislation requesting authorization for the Monitored Retrievable Storage facility (MRS) allowing Congress the prerogative to choose the proper authorization vehicle, DOE has now decided to develop a specific MRS bill and intends to forward it to Congress by June 10. The legislation will reportedly include the specific restrictions on the construction and operation of the MRS that were detailed in the proposal forwarded to Congress (See EXCHANGE, Vol. 6, No. 6). The restrictions are a 15,000 metric ton capacity cap and no acceptance of waste until NRC issues a construction authorization for the first repository.

DOE decided to follow this course of action rather than stick to their previous intent after receiving a letter from Senator Breaux, Chairman of the Senate Environment and Public Works Nuclear Regulation Subcommittee and Senator Simpson, the Subcommittee's Republican ranking minority member. The letter requested that the Secretary transmit specific MRS legislation including a section-by-section analysis prior to the planned Committee hearing on the MRS proposal scheduled for June 18. \*\*

#### **SEN. EVANS SUBMITS BILL TO REDO HLW PROGRAM, BUILD REGIONAL MRSs**

On May 21, Washington State Senator Daniel Evans introduced his expected legislation (S. 1266) (See EXCHANGE, Vol. 6, No. 8), to halt the current HLW repository program and authorize the construction of three regional MRS facilities in addition to the MRS already proposed under the Nuclear Waste Policy Act (NWPA). The bill was referred to Senate Energy and Natural Resources which is planning to hold hearings on the proposal

and other nuclear waste bills this summer.

Co-sponsored by Senators Murkowski (AK) and Hecht (NV), the legislation suspends the current repository program until January 31, 1998, and **authorizes the Department of Interior, not the DOE, to conduct a national survey of potentially suitable sites for a deep geologic repository.**

#### **NWPA Flawed Says Evans**

In his floor statement introducing the bill, the Washington Senator and former Governor charges DOE with "clearly flouting congressional intent as expressed in the NWPA" and "fracturing [the] fragile compromise built around carefully balanced regional interests" with its decision to indefinitely postpone the second round repository. He also charges that the "basic approach of the NWPA" -- to build a geological repository for "highly radioactive nuclear wastes so hot that they lose their radioactivity at the rate of only 50 percent every 10,000 years" is "flawed."

In Evans' view the NWPA is "the reverse of what logic tells us is appropriate," explaining that it would be better to store the highly radioactive waste above ground for a reasonable period of time to gain more knowledge of nuclear waste storage and spend more time on site selection.

#### **National Site Screening Proposed**

The legislation authorizes the Secretary of Interior to conduct a national survey to locate sites suitable for a HLW repository. Recommendations of at least nine sites are to be submitted to the Department of Energy by January 1, 1996. The Secretary of Energy is to complete a study on the need for a second repository and the effects of the MRS program by January 1, 1998. By July 1, 1998, "the President...is to recommend at least one site for characterization as a repository...[and DOE is to] submit a revised timetable for the licensing and development of the repository, including recommendations for changes in existing law." If the Secretary concludes that a second repository is

necessary, he is to "recommend to the President at least one site for characterization as a second repository by July 1, 2003...in a different geologic medium from the first repository."

### **Regionally Based MRS Facilities**

In lieu of proceeding to dispose of HLW waste in geologic repository by 1998, Senator Evans and his colleagues propose the siting and construction of **four regionally distributed MRS facilities**. The DOE Secretary is directed to select one site in three of four specified regions "which do not already contain an MRS facility." The four specified regions are: **Northeast** (CT, ME, MA, RI, VT, NH, NY, NJ, PA, DE, DC, MD); **Southeast** (AL, FL, GA, MS, NC, TN, SC, VA, WV, LA, AR); **Midwest North Central**: (IN, KA, MI, MN, MS, OH, WI, IL, KY, PA, TX, IO, ND, SD); **West Rocky Mountains** (All other states).

Site selection is to be determined through the application of criteria set in the statute, taking into consideration proximity to the source and beneficiaries of nuclear power and the minimization of the distance from the nuclear powerplant to the MRS facility. Existing federal facilities are to be given priority over non-federal sites and NRC licensed facilities are also to be given priority.

Operation of three MRS facilities is to commence by January 31, 2002. Any state hosting an MRS may not be considered as the host for a geologic repository. All spent fuel generated within each of the designated regions is to be stored within that region's MRS facility.

### **Utilities Have Choice of MRS Use**

The legislation provides that HLW generators have five years to decide whether to store their waste in an MRS or provide their own onsite storage. Generators or owners of HLW that decide to use on site storage may have their annual HLW fee obligations reduced by as much as 25 percent of the current 1 mil per kilowatt hour fee. [Editor's Note: This credit for storage approach is currently being requested by

some utilities and has been endorsed by the EXCHANGE (See Vol. 6, Nos. 6&8).

### **Financial Incentive Included**

The bill proposes to provide affected states and tribes upon their selection as potential hosts for an MRS facility financial compensation of \$100 million annually "once nuclear waste shipments begin until the facility is closed." The compensation is offered after potential sites have been selected based on technical and environmental criteria.

### **Subseabed, Other Disposal Alternatives**

The bill authorizes \$150 million for the establishment of a university-based consortium to investigate the feasibility of subseabed disposal. A study of this alternative is to be completed and submitted to Congress by December 31, 1995. Other disposal alternatives are also to be studied.

### **State Regulation of HLW Transport**

Reflecting what is definitely a growing interest in the Senate (See Related Story this Issue), the bill provides a state or locality with limited authority over the transport of nuclear waste. According to the proposal "A state or political subdivision may...designate routes for the transportation of [radioactive] materials and restrict the use of such routes unless no practical alternative exists; require transportation permits and impose fees provided they are not shown to be unreasonable in relation to the costs incurred by that State for emergency response and other services; require driver training; and, require shippers to provide documentation on shipments moving through that state." \*\*

### **ACTION RESTRICTING HLW TRANSPORT A POSSIBILITY IN THIS CONGRESS?**

Early next week (June 1) Senators should receive a "Dear Colleague" letter jointly signed by Senators Hecht and Proxmire requesting support and cosponsorship for a bill that would put restrictions on the

transport of high level nuclear waste and spent fuel. The new legislative initiative, which is expected to be introduced in mid-June as an amendment to the Hazardous Materials Transportation Act (HMTA) rather than as an amendment to the Atomic Energy Act, will incorporate provisions of bills the two Senators have already introduced -- S. 833 (Hecht) and S. 1008 (Proxmire). The bill could draw the cosponsorship of such Senators as Wirth, Heinz, Reid, Baucus, Evans, Gore, Rockefeller, Spector, Cohen, Mitchell, Stafford, and possibly Brock Adams plus others. Those listed have associated themselves with, or supported other similar HLW transport bills already under consideration.

In addition to this imminent action by the Wisconsin and Nevada senior Senators, the Senate Environment and Public Works Nuclear Regulation Subcommittee just announced a June 3 hearing on HLW transport. The Proxmire and Hecht bills, along with one introduced by Senator Wirth (S. 1269) will be the focus of the session.

### **Cask Safety, Testing Standards**

The new Hecht-Proxmire bill is expected to include provisions requiring that all HLW casks be certified by NRC. Such certification will require actual testing of full scale model casks. Higher safety standards are also set for cask design.

### **Rail over Highway Transport**

The bill directs the Secretary of Energy to give preference to rail over highway transport. It will incorporate the provisions of S. 1008 detailing NRC procedures for the issuance of a license for the transport of HLW.

### **State & Local Prerogatives Preserved**

As included in S. 1008, the new proposal will also require that an emergency response plan be in place and tested. States and tribes are allowed to impose regulations to: implement inspection, surveillance, and enforcement permits; establish fees designed to pay the cost of the state nuclear safety transportation programs; require the

reporting of accidents and incidents; require advance notification of shipments; designate alternate routes; require the identification of safe havens; ensure driver certification requirements; require monitoring, containment, cleanup, and decontamination procedures.

### **Urban Route Alternatives**

As proposed by Senator Hecht in S. 833 the new proposed HMTA amendment would prohibit the transport of HLW through a Bureau of Census designated "urbanized area" if the affected government can identify a safer route. The local government is not required to demonstrate that exceptional circumstances or unique physical conditions exist, only that an alternate route is safer. Adoption of this provision would overturn current law and court rulings that established federal regulatory primacy over New York City attempts to prohibit spent fuel transport through the city. \*\*

### **SWEDES MAINTAIN VALIDITY OF GEOLOGICAL DISPOSAL "PROVEN"**

In a recent letter to The EXCHANGE, Harold Ahagen, Project Manager for the Swedish Nuclear fuel and Waste Management Company, emphasizes that studies completed in Sweden in 1976 have "confirmed geological disposal as a feasible and safe solution for Sweden...." Mr. Ahagen wrote in response to an EXCHANGE article reporting on a briefing session conducted by Swedish officials for members of Congress (Vol. 6, No. 3, p. 6) that included the statement that the "Swedes...were putting off siting a permanent repository for 20 years because they had no proof of the validity of geological disposal." The Swedish project manager, now stationed in the U.S. under an exchange program with DOE, points out the "Swedish position is, in fact, quite the opposite."

### **Early Studies Cited**

According to Mr. Ahagen, the "so-called AKA investigation," initiated in 1972 "confirmed geological disposal as a feasible and safe solution for Sweden," and that subsequent

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studies investigating crystalline rock formations, the disposal of vitrified reprocessed waste and direct disposal of spent fuel -- KBS studies 1,2 and 3 -- "demonstrated that a safe disposal can be accomplished."

### **Reason For Swede Delay Explained**

He explains that the Swedish Government's decision to delay geological disposal until

2020 is the result of two factors:

- Central storage for 30-40 years allows adequate time for the spent fuel to cool down and allows lower design temperatures in the final repository; and
- Ample time is allowed for site selection optimizing the disposal concept and public interaction in order to gain public confidence in the program. \*\*

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## **Wrap Up (HLW)**

### **IN THE CONGRESS**

**PRICE-ANDERSON REAUTHORIZATION** Earlier in this session of Congress it looked like final action on Price-Anderson was possible during this calendar year (possibly even by August 1). Now, however, because of the controversy over contractor liability for actions resulting from "gross negligence and willfull misconduct" (GN&WM); attempts to incorporate emergency response planning provisions in the legislation; a lack of a consensus within the Senate Environment and Public Works Committee on basic issues such as whether to accept the compromise reached last year or relook at key items over again; and the press of other business within the Senate Public Works Committee, such as the Commissioner Roberts Controversy, and action on DOE's MRS proposal, there is little, if any, hope to complete action on a comprehensive P-A bill by the end of this year without a Herculean effort from the leadership of the Senate and House on both sides of the aisle.

Some staffers are of the opinion that there may be a push to enact the contractor liability coverage provisions to avoid a "contractor pull out" on August 1 of this year when current P-A coverage expires. This possible course of action will depend on the desires and interest of Senator Bennett Johnston.

As reported in the popular press, Senator Bennett Johnston, with the help of

Republican ranking minority member McClure, "reigned in" his Committee on provisions that could have imposed heavy civil penalties on DOE contractors for "gross negligence and willfull misconduct" (See EXCHANGE, Vol. 6, No. 8)

At the May 20 P-A markup (after two postponed meetings) the Senate Energy and Natural Resources Chairman opened the session admitting that he made a mistake in agreeing to the heavy civil penalty provisions adopted at the previous session then stated that the purpose of the markup was to correct this mistake. He then proceeded to introduce a substitute amendment to replace the previously adopted language.

Though Democratic colleagues -- Sens. Bumpers, Metzenbaum, Conrad and Fowler -- voiced strong objections to the change in direction, it was evident that the Louisiana Senator held the votes to push approval for the substitute and he did just that. The only amendment to the substitute that was adopted was a complete exemption from even the weakened substitute language for not-for-profit contractors or academically administered laboratories.

The nine contractor facilities that are exempted from any liability under the provisions dealing with contractor GN&WM are: Argonne National Laboratory; Los Alamos; Lawrence Livermore Laboratory; Lawrence Berkeley; SANDIA; Fermilab; Princeton Plasma Physics Lab; Brookhaven; and, The Pacific Northwest Laboratory.

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The Johnston-McClure Committee-adopted substitute language lowered the civil penalty provision from a maximum of \$30 million to \$100,000 per day. The criminal penalty provisions of the earlier proposal were retained. The amendment also requires the establishment of a Office of Inspector General for Nuclear Programs within the Department of Energy. This office would be responsible for continued oversight and investigation of DOE nuclear facilities.

**Senate Environment and Public Works** has scheduled a P-A markup for June 9th, but the bets are that it won't take place. Contractor liability for GN&WM is an issue that the Committee has not decided whether it will address.

Phil Sharp has scheduled a **House Energy and Power Subcommittee** markup on Interior's adopted version of the P-A reauthorization for June 3. He is personally interested in the contractor GN&WM issue. On May 22 he sent a letter to all DOE contractors that wrote Senator Johnston opposing any provisions establishing contractor liability for GN&WM, questioning their unwillingness to accept liability for GN&WM and asking for input on alternative proposals. The contractors have decided to "stonewall" on the offer,

preferring to fight any such requirements head on.

## IN THE INDUSTRY

Moving a 135 ton spent fuel transportable storage cask is no easy task, but at the **Idaho National Engineering Laboratory (INEL) Test Area North (TAN)**, it is becoming a relatively common occurrence. Thanks to the ingenuity of Mel Jensen, Dave Schoonen and Carlan Mullen, EG&G Idaho employees, the INEL will realize a first-year savings of \$980,000 on such cask moves. These employees initiated the design and procurement of a 59 ton transporter which will handle casks weighing up to 140 tons. The transporter, built by **Nuclear Packaging, Inc., Seattle, Washington**, will reduce the cost of each move to \$8,000.

The transporter specs were developed jointly with **Virginia Power Co.**, which was having the same problem. Both Virginia Power and the INEL now own the first two cask transporters ever built. They are somewhat different in design because the capacities are different. The one at INEL TAN is heavier and has an opening wide enough to handle concrete casks.