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**The NGA-DOE Grant to Examine Critical Issues Related to
Radioactive Waste and Materials Disposition Involving DOE
Facilities**

**Quarterly Report
October 1 - December 31, 1997**

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Abstract

Through the National Governors' Association (NGA) project "Critical Issues Related to Radioactive Waste and Materials Disposition Involving DOE Facilities" NGA brings together Governors' policy advisors, state regulators, and DOE officials to examine critical issues related to the cleanup and operation of DOE nuclear weapons and research facilities. Topics explored through this project include:

- ◆ Decisions involving disposal of mixed, low-level, and transuranic (TRU) waste and disposition of nuclear materials.
- ◆ Decisions involving DOE budget requests and their effect on environmental cleanup and compliance at DOE facilities.
- ◆ Strategies to treat mixed, low-level, and transuranic (TRU) waste and their effect on individual sites in the complex.
- ◆ Changes to the FFCA site treatment plans as a result of proposals in the EM 2006 cleanup plans and contractor integration analysis.
- ◆ Interstate waste and materials shipments.
- ◆ Reforms to existing RCRA and CERCLA regulations/guidance to address regulatory overlap and risks posed by DOE wastes.

The overarching theme of this project is to help the Department improve coordination of its major program decisions with Governors' offices and state regulators and to ensure such decisions reflect input from these key state officials and stakeholders.

This report summarizes activities conducted during the quarter from October 1, 1997 through December 31, 1997, under the NGA project. The work accomplished by the NGA project team during the past four months can be categorized as follows:

- ◆ maintained open communication with DOE on a variety of activities and issues within the DOE environmental management complex; and
- ◆ maintained communication with NGA Federal Facilities Compliance Task Force members regarding DOE efforts to formulate a configuration for mixed low-level waste and low-level treatment and disposal, DOE activities in the area of the Hazardous Waste Identification Rule, and DOE's proposed National Dialogue.

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Executive Summary

This report summarizes activities conducted during the quarter from October 1, 1997 through December 31, 1997, under the National Governors' Association (NGA) project, "Critical Issues Related to Radioactive Waste and Materials Disposition Involving DOE Facilities." The overarching theme of this project is to help the Department improve coordination of its major program decisions with Governors' offices and state regulators and to ensure such decisions reflect input from these key state officials and stakeholders.

During the past three months the NGA project team maintained open communication with DOE on a variety of activities and issues within the DOE environmental management complex including DOE efforts to formulate a configuration for mixed low-level waste and low-level treatment and disposal, DOE activities in the area of the Hazardous Waste Identification Rule, external regulation, and DOE's proposed National Dialogue.

Through both written and verbal communication, the NGA project team informed the NGA Federal Facilities Compliance Task Force members on a variety of issues including (1) DOE efforts to formulate a configuration for mixed low-level waste and low-level treatment and disposal, (2) DOE activities in the area of the Hazardous Waste Identification Rule, (3) external regulation, and (4) DOE's proposed National Dialogue.

NGA continues to work with DOE and keep the states informed on a variety of activities and issues within the DOE environmental management complex. The NGA project team has been staying abreast of follow-up activities from the DOE "Proposed Configuration Workshop for MLLW and LLW" by being in the review loop for materials through electronic mail and phone calls with DOE staff and contractors. DOE plans to share a package of information with us on January 31 that we will disseminate to the states and discuss on a series of conference calls. At this time the next NGA FFCA Task Force is being planned tentatively for mid-March to discuss DOE's draft configuration for MLLW and LLW and other issues.

Introduction

Through the National Governors' Association/DOE grant, NGA brings together Governors' policy advisors, state regulators, and DOE officials to examine critical issues related to the cleanup and operation of DOE nuclear weapons and research facilities. Topics explored through this project include:

- ◆ Decisions involving disposal of mixed, low-level, and transuranic (TRU) waste and disposition of nuclear materials.
- ◆ Decisions involving DOE budget requests and their effect on environmental cleanup and compliance at DOE facilities.
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Results and Discussion

State Dialogue

Activities during this quarter focused on maintaining open communication with DOE officials on a variety of activities and issues within the DOE environmental management

complex. The NGA project team held a conference call with DOE officials regarding topics about which DOE should be consulting states in preparation for a potential meeting of the NGA FFCA Task Force and DOE, and potential conference calls.

DOE's Draft Configuration for MLLW and LLW Treatment and Disposal

NGA and DOE held a conference call on November 18 regarding DOE efforts to formulate a configuration for MLLW and LLW treatment and disposal. The proposed configuration will support the development of Records of Decision for the Waste Management Programmatic Impact Statement. In preparation for the call the NGA project team reviewed and prepared informal comments on DOE's criteria for the proposed configuration and the best way to display the tradeoffs among these criteria. We then provided feedback on evaluation criteria for the proposed configuration, the data sources to be used in formulating the configuration itself and on possible display mechanisms for the data. This conference call was partly in preparation for the "Proposed Configuration Workshop for MLLW and LLW" held in December 8-12 in Albuquerque, New Mexico. NGA project team member Chris Hanson of Ross & Associates attended the workshop.

Low-Level Waste Disposal Cost Comparison Report

The NGA project team was contacted by DOE regarding providing comments on DOE's Low-Level Waste Disposal Cost Comparison Report that examines disposal and generator costs for six waste management and three environmental restoration facilities in the DOE complex. We provided comments via conference call to Dave Meredith and Steve Loftus of MACTEC.

Hazardous Waste Identification Rule (HWIR)

We held a conference call on November 4 between the NGA FFCA Task Force and U.S. Environmental Protection Agency (EPA) and DOE officials regarding DOE and EPA progress and next steps on HWIR. The states communicated to EPA that they were not interested in discussing the technical aspects of HWIR at this time without further discussions with DOE on broader policy and regulatory issues on the potential exit of mixed waste from RCRA regulation.

On November 18 we held a conference call with Jim Antizzo and Marilyn Stone to further discuss HWIR. We communicated to them that the states would feel most comfortable moving ahead on HWIR if they could be assured that DOE was moving toward the external regulation of its environmental activities.

External Regulation

On October 30 we held a conference call between the NGA FFCA Task Force and DOE regarding DOE's progress on external regulation by the Nuclear Regulatory Commission (NRC). In general, states were interested in how they could become involved with NRC in exploring external regulation of DOE. Several states felt that new DOE facilities should be included in the second round of the "simulated regulation" pilot program. States are also very concerned about the impact of the preliminary results of the Waste Control Specialists, Inc. lawsuit against DOE, i.e., what it means for DOE's own ability

to pursue external regulation, as well as states' ability to substantively affect DOE's decision making process. States also expressed considerable concern about multiple, seemingly conflicting approaches being pursued by DOE with regard to external regulation (i.e., NRC or NRC agreement state oversight on the one hand, and state-DOE joint oversight in Nevada on the other).

Conclusion

NGA will continue to work with DOE and keep the states informed on a variety of activities and issues within the DOE environmental management complex. The NGA project team has been staying abreast of follow-up activities from the DOE "Proposed Configuration Workshop for MLLW and LLW" by being in the review loop for materials through electronic mail and phone calls with DOE staff and contractors. DOE plans to share a package of information with us on January 31 that we will disseminate to the states and discuss on a series of conference calls. At this time the next NGA FFCA Task Force is being planned tentatively for mid-March to discuss DOE's draft configuration for MLLW and LLW and other issues.