

ACNW-0128

CERTIFIED

BY B. JOHN GARRICK

5/26/99

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**CERTIFIED MINUTES OF THE 107TH MEETING OF THE
ADVISORY COMMITTEE ON NUCLEAR WASTE
MARCH 16-17, 1999
Rockville, Maryland**

The U.S. Nuclear Regulatory Commission (NRC) Advisory Committee on Nuclear Waste (ACNW) held its 107th meeting on March 16-17, 1999, at Two White Flint North, Room T-2 B 3, 11545 Rockville Pike, Rockville, Maryland. ACNW members who attended this meeting included Dr. B. John Garrick, ACNW Chairman, Dr. Charles Fairhurst, and Dr. Raymond G. Wymer. Dr. George M. Hornberger, ACNW Member, did not attend this meeting. For a list of other attendees, see Appendix III.

MARCH 16, 1999

The Committee members and ACNW staff reviewed past presentations and information that the Committee had received on the Department of Energy's (DOE's) viability assessment (VA) for the proposed high-level waste repository at Yucca Mountain, Nevada. The Committee prepared for its presentation to the Commission on DOE's VA. The actual presentation was being given on March 17, 1999. The Committee's presentation to the Commission on the VA was presented as a work in progress, no collegial advice (ACNW report) had yet been produced. The Committee did not hear any formal presentations during this meeting nor received any written or oral statement from members of the public.

RS02

The Committee observed presentations given to the Commission on the status of the High-Level Waste Program VA. The Committee watched Commission briefings by other presenters on the Agency's broad-band telecast from the Committee's main conference room. The Commission presentations heard by the ACNW included talks from the NRC staff, the Nevada Nuclear Waste Project Office, affected units of local governments, and tribal governments.

The Committee discussed the content of its planned presentation to the Commission on DOE's VA and did a "dry run" of this presentation.

MARCH 17, 1999

Meeting With Commission

The ACNW presented its insights on DOE's VA. Dr. Garrick gave an overview of the ACNW review and discussed performance assessment issues. Dr. Fairhurst discussed the natural system and repository design issues. Dr. Wymer discussed considerations related to the engineered barrier system. In a question and answer session the Committee emphasized that the repository design must remain flexible in order to provide maximum containment of radionuclides as additional information about the natural setting and design features develop.

The Committee observed as representatives of the Nuclear Waste Technical Review Board (NWTRB) briefed the Commission on the Board's review of DOE's VA. Drs. D. Knopman and D. Bullen made the presentation for the NWTRB.

VIII . EXECUTIVE SESSION (OPEN)

[Mr. Richard Major was the Designated Federal Official for this part of the meeting.]

The ACNW briefly discussed the morning's discussions with the Commission among themselves. The ACNW plans to prepare a collegial letter on the VA review at its 108th meeting, March 23–25, 1999.

A. Future Meeting Agenda (Open)

Appendix IV summarizes the proposed items endorsed by the Committee for the 108th ACNW meeting, March 23–24, 1998.

B. Future Committee Activities (Open)

The 109th ACNW meeting is scheduled for May 11–13, 1999

**MINUTES OF THE 107TH ACNW MEETING
MARCH 16 AND 17, 1999**

APPENDICES

- I. *Federal Register* Notice
- II. Meeting Schedule and Outline
- III. Meeting Attendees
- IV. Future Agenda and Working Group Activities
- V. Documents Provided to the Committee

APPENDIX I

10030

Federal Register/Vol. 64, No. 39/Monday, March 1, 1999/Notices

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Mr. Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the

presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated May 15, 1997, as supplemented by letters dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, December 21, 1998, and February 4, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 25th day of February 1999.

For the Nuclear Regulatory Commission,
Mel Gray,

Project Manager, Project Directorate IV-2,
Division of Licensing Project Management,
Office of Nuclear Reactor Regulation.

[FR Doc. 99-5076 Filed 2-25-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

*Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 107th meeting on March 16-18, 1999, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, March 16, 1999—8:30 A.M. until 6:00 P.M.

Wednesday, March 17, 1999—8:30 A.M. until 6:00 P.M.

Thursday, March 18, 1999—8:30 A.M. until 4:00 P.M.

The following topics will be discussed:

A. Preparation of ACNW Reports—The Committee will discuss planned

reports on the following topics: an ACNW self-assessment, DOE's Viability Assessment, NRC supported Waste Related Research, a White Paper on Repository Design Issues at Yucca Mountain, and other topics discussed during this and previous meetings as the need arises.

B. Meeting with the NRC Commissioners, Commissioners' Conference Room, One White Flint North, March 17, 1999, 9:00 a.m. to 11:30 a.m.—The Committee will continue preparations for its public meeting with the Commission. The Viability Assessment of a Repository at Yucca Mountain will be the topic of discussion.

C. Committee Activities/Future Agenda—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

D. Miscellaneous—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on September 29, 1998 (63 FR 51967). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the Chief, Nuclear Waste Branch, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs. Further information regarding topics to be discussed, whether the meeting

has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch, telephone 301/415-7366, between 8:00 A.M. and 5:00 P.M. EST.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at <http://www.nrc.gov/ACRSACNW>.

Video teleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audio Visual Technician (301-415-8066), between 7:30 a.m. and 3:45 p.m. EST at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: February 23, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

(FR Doc. 99-4937 Filed 2-25-99; 8:45 am)

LING CODE 7886-01-P

OFFICE OF MANAGEMENT AND BUDGET

Implementation of the Federal Activities Inventory Reform Act of 1998, (Public Law 105-270) ("The FAIR Act")

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed Guidance on the Implementation of the FAIR Act Through Revisions to the Supplemental Handbook to OMB Circular A-76.

SUMMARY: The Office of Management and Budget (OMB) requests agency and public comments on its proposed guidance to implement the recently enacted "Federal Activities Inventory Reform Act of 1998" (Public Law 105-270) (the "FAIR Act"). The FAIR Act directs agencies to develop inventories of their commercial activities and to conduct cost comparisons to determine whether a commercial activity that is performed by a governmental source should instead be performed by a private-sector source. The FAIR Act requires that Federal agencies must

submit to OMB, each fiscal year, a list of all their activities that are not inherently governmental ("commercial activities") and that are performed by Federal employees, with their associated Full-Time-Equivalents (FTE). (FAIR Act, Section 2(a)). OMB will review each agency's list for the fiscal year and consult with the agency regarding its content. (FAIR Act, Section 2(b)). Upon the completion of this review and consultation, the agency must transmit a copy of the list to Congress and make the list available to the public. (FAIR Act, Section 2(c)). An interested party, as defined by FAIR, may then challenge the omission or inclusion of a particular activity on the list (FAIR Act, Section 3) and the agency must then notify Congress of any changes to the list that result from this process and make the changes available to the public. (FAIR Act, Section 2(c)(2)). Finally, the FAIR Act requires agencies, within a reasonable time after making final decisions to include or exclude activities on the list, to review the activities on the list for possible performance by the private sector. When an agency considers contracting with a private-sector source for the performance of a commercial activity, the agency must use a competitive process to select the source (except as may otherwise be provided in a law, Executive order, regulation, or executive branch circular), in accordance with OMB guidance. In conducting cost comparisons, agencies must ensure that all costs are considered (including certain specified costs) and that these costs are realistic and fair. (FAIR Act, Section 2(d)-(e))

In complying with the FAIR Act, agencies will implement the OMB Circular A-76, "Performance of Commercial Activities," which establishes Federal policy for the performance of recurring commercial activities. The Circular distinguishes between those agency activities that are commercial in nature and those that are inherently governmental. See Circular A-76, Sections 6a and 6e (definitions of "commercial activity" and "governmental function"); Office of Federal Procurement Policy Letter 92-1, "Inherently Governmental Functions," 57 FR 45096 (September 30, 1992). Guidance for implementing the Circular's general policies is contained in a Supplemental Handbook for Circular A-76, which OMB revised in 1996. See 61 FR 14338 (April 1, 1996). Under the Circular and its Supplemental Handbook, agencies must develop and maintain annual inventories of their commercial

activities. When deciding whether to have an activity performed by a governmental or private-sector source, agencies must also conduct cost comparisons according to specified criteria and procedures. The proposed revisions to the Handbook would inform agencies of the Act's requirements and conform the Handbook to those requirements. The revisions also would revise the Handbook to clarify that agencies must rely on the Handbook's guidance with respect to the cost-comparison competition requirements of the FAIR Act. These requirements establish a competitive source-selection process which compares costs in a complete, fair, and reasonable manner.

DATES: Written comments on the proposed revisions must be filed on or before April 15, 1999 to be considered.

ADDRESSES: Address all comments to the Budget Analysis and Systems Division, NEOB Room 6002, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, FAX Number (202) 395-7230.

FOR FURTHER INFORMATION CONTACT: Mr. David Childs, (202) 395-6104.

Availability: Copies of the FAIR Act, the current OMB Circular A-76 and its Supplemental Handbook may be obtained by contacting the Executive Office of the President, Office of Administration, Publications Office, Washington, DC 20503, at (202) 395-7332. These documents are also accessible on the OMB Home page. The online OMB Home page address (URL) is <http://www.whitehouse.gov/WH/EOP/omb>.

SUPPLEMENTARY INFORMATION: On October 12, 1998, President Clinton signed into law the "Federal Activities Inventory Reform Act of 1998" (Public Law 105-270) (the "FAIR Act"). The FAIR Act directs agencies to develop inventories of their commercial activities and to conduct cost comparisons to determine whether a commercial activity that is performed by a governmental source should instead be performed by a private-sector source.

To facilitate agency implementation of the FAIR Act, OMB proposes to revise the Supplemental Handbook (particularly Appendix 2, which addresses the commercial-activity inventory). These proposed revisions would inform agencies of the FAIR Act's requirements and, to avoid duplication, conform Handbook provisions so that they cross-reference and parallel relevant FAIR Act provisions. The changes would incorporate the statutory deadline of June 30th for agency submissions to OMB of annual commercial-activity inventories and

APPENDIX II



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON NUCLEAR WASTE
WASHINGTON, D.C. 20555-0001

SCHEDULE AND OUTLINE FOR DISCUSSION
107TH ACNW MEETING
MARCH 16-17, 1999

TUESDAY, MARCH 16, 1999, TWO WHITE FLINT NORTH, ROOM 2B3, 11545 ROCKVILLE PIKE, ROCKVILLE, MARYLAND

- 1) Preparation for Mtg. With Commission
- 2) 1:00 - 4:30 P.M. Observe Commission Briefing on Status of DOE High-Level Waste Viability Assessment
- NRC Staff
 - State of Nevada
 - Local Governments
 - Native Americans
- 3) 4:45 - 6:00 P.M. Discussion of Afternoon's Commission Presentations and Preparation for Next Day's Commission Meeting

WEDNESDAY, MARCH 17, 1999, TWO WHITE FLINT NORTH, ROOM 2B3, 11545 ROCKVILLE PIKE, ROCKVILLE, MARYLAND

- 4) 8:30 - 8:45 A.M. Gather in ACNW Conference Room
- 5) 9:00 - 11:50 A.M. Commission Meeting with ACNW and NWTRB to discuss DOE's Viability Assessment (Commission's Hearing Room).
- 12:00 - 1:00 P.M. LUNCH
- 6) 12:00 12:30
~~1:00 - 3:00~~ P.M. Discussion of the morning's Commission Briefing, and Preparation of ACNW Reports on:
- Viability Assessment
 - Self Assessment
 - Repository Design White Paper
 - Report on NRC Waste Related Research

APPENDIX III: MEETING ATTENDEES

**107TH ACNW MEETING
MARCH 16-17, 1999**

ACNW STAFF

Dr. Andrew Campbell
Ms. Lynn Deering
Ms. Michele Kelton
Dr. John Larkins
Mr. Howard Larson
Dr. Richard Savio
Ms. Mary Thomas

APPENDIX IV: FUTURE AGENDA

The Committee agreed to consider the following during the 107th ACNW Meeting, March 16-18, 1999:

- **Low Levels of Ionizing Radiation** — The Committee will conduct a day and a half Working Group Meeting on the radiation effects from low-level ionizing radiation, specifically as related to the Linear Non-Threshold (LNT) Dose Response Theory. This is a follow-on to several Committee meetings held over the past 3 years on this particular subject. Speakers will discuss various studies underway (or completed), as well as past advice related to this topic. Each speaker has been requested to identify suggestions for research, from their perspective, which would fill gaps in the current regulatory base. These periodic updates and overviews of research permit the Committee to continue to provide relevant advice to the Commission on this important topic. Among those invited to present related national and international perspectives are: representatives of the National Council on Radiation Protection and Measurements (NCRP), the Department of Energy (DOE), the National Academy of Sciences Board of Radiation Effects Research, the National Cancer Institute (NCI), the International Committee on Radiation Protection (ICRP), the University of Massachusetts, and the Nuclear Energy Institute (NEI). Following the presentations, a panel discussion will be held which will involve the participation of many of the presenters, plus invitees from the Environmental Protection Agency (EPA) and interested Congressional staff.
- **Meeting With NRC's Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards** — The Committee will meet with the Director, DWM, to discuss recent developments within the division, such as developments at the Yucca Mountain project, rules and guidance under development, available resources, and other items of mutual interest.
- **Clearance Rule** — The Committee will review progress on the development of a Clearance Rule for materials and equipment having residual radioactivity. The potential rulemaking is intended to focus on levels above background for unrestricted use that are adequately protective of public health and safety.
- **Standard Review Plan on Decommissioning** — The Committee will be briefed on the Standard Review Plan (SRP) on Decommissioning by the NRC staff. The SRP is being developed to enable the NRC staff to evaluate information, submitted by licensees, in a timely, efficient, and consistent manner to determine if decommissioning can be conducted such that public health and safety are protected and the facility can be released in accordance with the NRC's requirements.
- **Preparation of ACNW Reports** — The Committee will discuss planned reports on the following topics: an ACNW self-assessment, DOE's Viability Assessment, NRC supported Waste Related Research, a White Paper on Repository Design Issues at Yucca Mountain, low levels of ionizing radiation and other topics discussed during this and previous meetings as the need arises.

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Appendix III
107th ACNW Meeting
March 16-17, 1999

- **Miscellaneous** — The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

**APPENDIX V
LIST OF DOCUMENTS PROVIDED TO THE COMMITTEE**

[Note: Some documents listed below may have been provided or prepared for Committee use only. These documents must be reviewed prior to release to the public.]

MEETING HANDOUTS

**AGENDA
ITEM NO.**

DOCUMENTS

5 Commission Meeting With ACNW and NWTRB to Discuss DOE's VA

[NOTE: All handouts and viewgraphs used during this part of the meeting are part of the NRC Meeting Minutes. A copy of viewgraphs used by ACNW are included with the Official Copy of the ACNW Minutes for the 107th meeting.]

Appendix V
106th ACNW Meeting
February 23-25, 1999

MEETING NOTEBOOK CONTENTS

<u>TAB</u> <u>NUMBER</u>	<u>DOCUMENTS</u>
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THERE WAS NO MEETING NOTEBOOK FOR THIS MEETING.