

SUBJECT: LOW-LEVEL RADIOACTIVE WASTE SURCHARGE ESCROW ACCOUNT

4-15-87

1. PURPOSE. To establish the financial management policy and procedures for collecting, investing, disbursing, and reporting of funds received in the Low-Level Radioactive Waste Surcharge Escrow Account.

2. REFERENCES.

a. DOE 2200.1, ACCOUNTING POLICY AND PRACTICES, of 11-9-79, which establishes the policy, principles, objectives, and responsibilities for Department of Energy (DOE) accounting and reporting.

b. Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240, section 5(d)(2)(A) which requires the Secretary to deposit surcharge funds received from sited States into a special escrow account for investment and subsequent disbursement in accordance with the milestones specified in the Act.

c. 51 FR 23030, "Implementation of Procedures for DOE's Management of the Low-Level Radioactive Waste Surcharge Escrow Account" of 6-24-86, which gives notice of DOE's procedure for the Low-Level Radioactive Waste Surcharge Escrow Account.

3. DEFINITIONS.

a. Compact is an agreement among two or more States to develop and use a common low-level radioactive waste disposal site.

b. Compact Region is an area consisting of all States that are members of a compact.

c. Generator is any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste.

c. Non-Member State is a State which does not have a disposal site and is not a member of a compact region.

e. Non-Sited Compact Region is a compact region currently without a disposal site.

f. Sited States are the States of Washington, South Carolina, and Nevada which host the three existing commercially operated low-level radioactive waste disposal sites.

DISTRIBUTION:  
All Headquarters Elements

INITIATED BY:  
Office of the Controller

4. BACKGROUND. The Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240, was signed by the President on 1-15-86 (hereafter referred to as "the Act"). The Act amended Public Law 96-573, The Low-Level Radioactive Waste Policy Act, enacted in 1980, which required States to take responsibility for disposal of low-level radioactive waste generated within their borders. The Act gives the sited States, which host the three existing commercially operated low-level radioactive waste disposal sites, the authority to collect surcharges on wastes disposed at these sites that were generated in the non-member States and non-sited compact regions. The Act requires that 25 percent of the surcharge fees collected by the sited States shall be transferred on a monthly basis to an escrow account held by DOE. Funds deposited in the escrow account shall be invested in United States Government securities and subsequently disbursed as: (a) payments to non-member States and non-sited compact regions if statutory milestones toward development of new disposal sites have been met; (b) payments to a sited State if a non-member State or non-sited compact region has failed to meet a statutory milestone; and (c) beginning 2-1-93, and in accordance with the schedule in section 5(d)(2)(C)(ii) of the Act, payments to each generator from which the surcharge was collected, if the State (or where applicable, a compact region) in which the waste was generated fails to meet the 1-1-93 deadline for disposal of all waste generated, and the State within which such waste was generated elects not to take title to, take possession of, and assume liability for such waste.

5. POLICY.

- a. The escrow account shall be used only for the deposit and disbursement of funds collected from surcharge payments received for low-level waste disposed of at a regional disposal facility in any of the sited States and for the deposit of investment earnings on available account balances.
- b. Funds so deposited in the escrow account shall not be the property of the United States. DOE shall act as trustee for such funds and shall invest them in interest-bearing United States Government securities with the highest available yield.
- c. Disbursements shall be made only to those entities so authorized to receive the payments from the account.
- d. Disbursements shall be made not later than 30 days after the milestone date provided that the information and remittances from sited States necessary to effect payment have been received timely and each non-member State or non-sited compact region has provided adequate and timely information for DOE to determine milestone compliance.

6. RESPONSIBILITIES.

a. Assistant Secretary for Nuclear Energy shall:

- (1) Determine whether non-member States and non-sited compact regions requesting payment from the escrow account have met each respective milestone as specified in the Act.
- (2) Assess whether funds disbursed from the escrow account have been used for the purposes specified in the Act.
- (3) Determine, by documentation, that individual(s) requesting payment or providing wire transfer instructions for a non-member State, non-sited compact region, or sited State are authorized officials who have been so designated by the governor or authorized agent of the non-member State or sited State or the executive director or chairman of the non-sited compact region.
- (4) Designate, in writing, the individual(s) within the Assistant Secretary for Nuclear Energy's office having the authority to direct the Controller to disburse funds from the escrow account to non-member States, non-sited compact regions, sited States, and generators, as appropriate. A sample of the individual's signature shall accompany the written authorization. Any change in the appointed designee(s) requires immediate written notification to the Controller.
- (5) In coordination with the Controller, determine that funds due to DOE are paid in accordance with the provisions of this Order.
- (6) In coordination with the Controller, determine that the sited States provide financial report data, as necessary, for the Controller to maintain financial records to meet the requirements of the Act.
- (7) In coordination with the Controller, provide annually an expenditure report to Congress which itemizes the non-member States and non-sited compact regions use of the funds rebated from the escrow account.
- (8) Maintain documentation on the determinations described above.

b. Assistant Secretary, Management and Administration, through the Controller, shall:

- (1) Have the overall financial management responsibility for collecting, investing, and disbursing funds in the Low-Level Radioactive Waste Surcharge Escrow Account.
- (2) Perform all accounting activities related to the Low-Level Radioactive Waste Surcharge Escrow Account.

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(3) Invest the funds in interest-bearing United States Government securities with the highest available yield. Investments shall be made promptly upon receipt of funds to the extent that time constraints and minimum dollar amounts established by the Department of Treasury can be met.

(4) Maintain subsidiary accounts for each sited State to include the amount of deposits made by each non-member State or non-sited compact region to the sited State, interest earned on invested deposits, and the amount of disbursements made. For the milestone period beginning 1-1-90, subsidiary accounts will be established for all generators within each non-member State or non-sited compact region to include deposits made to the sited State, interest earned on invested deposits, and the amount of disbursements made.

(5) Make timely disbursements to non-member States, non-sited compact regions, generators, and sited States based on properly authorized, written instructions from the Assistant Secretary for Nuclear Energy.

(6) Provide financial reports following each quarter or following each milestone date, whichever occurs sooner, to the Assistant Secretary for Nuclear Energy and to the sited States, non-member States, and non-sited compact regions.

(7) Assist the Assistant Secretary for Nuclear Energy in preparing the annual report to Congress.

c. General Counsel shall provide legal advice to the Controller and the Assistant Secretary for Nuclear Energy regarding the administration of the Low-Level Radioactive Waste Surcharge Escrow Account.

## 7. PROCEDURES.

### a. Deposits and Investments.

(1) Sited States shall submit to DOE 25 percent of the collected surcharge payments for deposit in the escrow account within 20 calendar days following the end of the month in which waste was received at the disposal site. If funds are not received by the close of business on the last day specified, or if the sited States have not communicated that funds will not be forthcoming, the Controller's Office shall contact the delinquent sited States and determine the status of the funds. Deposits that the Controller's Office determines to be late shall be subject to a daily interest charge equivalent to the Treasury Department's Current Value of Funds Rate. This interest charge is in accordance with the "Notice of Procedures for DOE's Management of the Low-Level Radioactive Waste Surcharge Escrow Account" published in the Federal Register, Vol. 51, No. 121, of 6-24-86, as authorized by Public Law 99-240.

- (2) All deposits made by the sited States shall be wire transferred. The Controller shall develop written instructions for wire transferring deposits to DOE.
- (3) Upon receiving the funds for deposit, the Office of the Controller shall deposit the funds in the escrow account for investment in United States Government securities. If funds are received in time and in sufficient amount to allow investment, they shall be invested on the day of receipt; otherwise, funds shall be invested as soon thereafter as possible. The type of investment instrument purchased shall depend upon the amount of the funds available and the length of time the funds are available for investment.
- (4) The Controller will record receipts in subsidiary accounts for each sited State. The subsidiary accounts will indicate the amount remitted by each non-member State or non-sited compact region. For the milestone period beginning 1-1-90, the subsidiary accounts will indicate the amount remitted by each generator within each non-member State or non-sited compact region to the sited State.
- (5) The Controller shall make investments by pooling the funds in the subsidiary accounts and will coincide the investments with the disbursement schedule as specified in the Act. In the event it becomes necessary to disburse funds prior to the maturity of an investment instrument, the instrument shall be redeemed to make the disbursement and any remaining funds subsequently reinvested. Interest income earned from investment of these funds shall be allocated back to the subsidiary accounts based upon each account's pro-rata share of the total investment balance.

b. Disbursements.

- (1) Upon determining that a non-member State or non-sited compact region has met a milestone as required by the Act, the Assistant Secretary for Nuclear Energy or designee shall direct the Controller by written authorization to disburse funds. The memorandum shall provide the name of the State or compact region, the particular milestone that has been met, the amount of funds to be disbursed, and the information necessary to transfer the funds to the State or compact region.
- (2) In those instances where a non-member State or a non-sited compact region has not met the milestone required by the Act, the Assistant Secretary for Nuclear Energy or designee shall direct the Controller, by written authorization, to disburse funds to the applicable sited State or generator and provide the amount of funds to be disbursed and the information necessary to transfer the funds.

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(3) Upon receipt of properly executed disbursement of funds memoranda from the Assistant Secretary for Nuclear Energy, the Controller shall wire transfer the amounts held in escrow, including accrued interest, to the non-member States, non-sited compact regions, sited States, and generators, as applicable. These disbursements shall be recorded in the subsidiary accounts for the sited States.

c. Reporting.

(1) DOE Reports. The Controller will provide reports following each quarter or following each milestone date, whichever occurs sooner, to the Assistant Secretary for Nuclear Energy, the sited States, non-member States, and non-sited compact regions to show deposits made to and disbursements made from the escrow account.

(2) State and Region Expenditure Reports. The Assistant Secretary for Nuclear Energy shall require the non-member States and non-sited compact regions to provide annually an expenditure report which itemizes their use of the funds rebated from the escrow account. The information provided by the non-member States and non-sited compact regions shall be used to develop the annual report to Congress as required by the Act.