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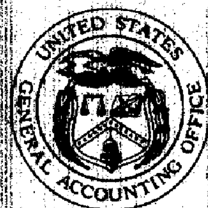
Report to Congressional Requesters

July 1994

ENERGY MANAGEMENT

Payments in Lieu of Taxes for DOE Property May Need to Be Reassessed



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Resources, Community, and
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Congressional Requesters

The Atomic Energy Commission (AEC) and its successor agencies—the Energy Research and Development Administration (ERDA) and the Department of Energy (DOE)—have acquired a substantial amount of property nationwide. Most of this property was acquired decades ago for activities related to the Manhattan Project and the subsequent development, production, and testing of nuclear weapons. The Atomic Energy Act of 1946, as amended,[1] authorized AEC to compensate communities for the loss of tax revenues on properties used for these purposes in cases in which the properties had been removed from the local tax rolls. Such compensation is termed "payments in lieu of taxes" because federally owned property is not subject to state and local taxation. The act also authorized AEC to make payments in excess of the taxes if a community experienced "special burdens" as a result of AEC's activities. Subsequent legislation transferred these authorities to ERDA and DOE.

Concerned that some communities hosting DOE facilities are receiving compensation while others are not, you asked us to

- identify which communities have received payments and how the payment amounts were determined,
- assess whether a 1987 revision of DOE's payment policy was consistent with the provisions of the act, and
- examine the potential effect of DOE's 1993 changes to the payment policy.

Results in Brief

DOE estimates that 49 communities are eligible for payments under the act. The 49 communities host 35 of DOE's 50 major sites and encompass about 22 percent of DOE's total property holdings. According to DOE, the communities hosting the remaining sites, such as sites used for nonnuclear activities and properties that were not subject to local taxation before they were acquired by the government, do not meet the eligibility requirements established in the act. Through 1993, 26 of the 49 communities had applied for payments under the act. Sixteen of the 26 communities had been approved for payments in lieu of taxes. As of December 31, 1993, these payments totaled $22.4 million. Payments to 13 of the 16 communities

[1]The act was amended and renumbered in 1954. Since that time, it has been referred to as the Atomic Energy Act of 1954.

were approved and calculated under a policy established by AEC. Payments to the remaining three communities were approved and calculated under a policy issued by DOE in 1987. This policy, among other things, established an additional eligibility requirement for the payments. Unlike the earlier policy, the 1987 policy specifically required that for a community to be eligible for payments pursuant to the act, the tax loss incurred must exceed the value of all benefits derived from DOE's activities in the community. Finally, although 7 of the 26 communities had applied for special burdens payments, no communities had been approved to receive the payments through the end of 1993.

Although DOE's 1987 policy imposed more stringent requirements than generally had been applied to earlier applicants, it was consistent with the act. The act provides DOE with broad discretion in deciding whether to make payments for eligible property and in setting the terms and conditions applicable to any payments. According to DOE, the 1987 changes to the payment policy were initiated to contain future costs, given the constraints in the federal government's budget. However, the revised policy raised concerns among a group of affected communities. For example, the group believed that it was inequitable for the communities that applied after the 1987 policy was established to be subject to an additional eligibility requirement when the communities approved under the earlier policy had not.

In September 1993, DOE revised its payment policy again to address concerns raised by the group of affected communities. The new policy eliminates some of the inconsistencies between the two earlier payment policies, including the 1987 eligibility requirement. If all 49 eligible communities receive the payments, the policy changes will increase costs from about $2.7 million to an estimated $10 million annually. DOE is also considering a major change in its policy on valuing property. Instead of basing payments on the properties' use when acquired, DOE may base payments on the current value of comparable properties in the vicinity of eligible DOE sites. For example, if comparable private properties are used for industrial purposes, payments would be based on a property's value for industrial uses, rather than on the property's value as farmland when acquired. If adopted, this policy change would further increase payments to about $20 million annually.

DOE's recent policy initiatives are within its broad discretion under the act. However, the initiatives are a major departure from DOE's earlier payment policy and significantly increase payments at a time when the government

is seeking ways to reduce its expenditures. Furthermore, while the policy initiatives are intended to enhance the equity of DOE's payment decisions about eligible communities, communities that are ineligible for payments under the act could view the initiatives as contributing to disparities.

Background

Federally owned property, including land and facilities, is exempt from taxation by state and local governments because of the sovereignty of the United States government. Nevertheless, the Congress has authorized payments in lieu of taxes for some federally owned property. Section 168 of the Atomic Energy Act,[2] for example, authorizes payments in lieu of taxes for property that (1) AEC—or its successors—acquired for purposes specified in the act, such as the research, development, production, and application of nuclear energy,[3] and (2) had been subject to taxation by local taxing jurisdictions before the government's acquisition of the property.[4]

The act specifies that these "payments may be in the amounts, at the times, and upon the terms" that AEC and its successors deem appropriate. However, the payments generally cannot exceed the amount of taxes that would have been payable for the property "in the condition in which it was acquired." DOE and its predecessors have interpreted this statement to mean that if the property was used for agricultural purposes when acquired, the payments must be based on the property's value as agricultural property rather than, for example, its value as industrial or commercial property, although the latter categories may more closely reflect the property's current use.

The act authorizes increased payments (payments in excess of the amount of taxes that would have been payable for the property in the condition in which it was acquired) for those communities that have incurred special burdens resulting from nuclear defense-related activities within their boundaries. However, in these cases, the act specifies that the benefits accruing to the community from the agencies' nuclear activities must be considered in determining the payment amount. The act does not define what constitutes a special burden. However, according to DOE and its predecessors, such burdens must be unusual and substantial, such as

[2]42 U.S.C. 2208.

[3]Because most activities specified in the act involve military applications, this report refers to the activities as "nuclear defense-related."

[4]Local taxing jurisdictions (henceforth referred to as "communities") include any county, township, city, and school system with the authority to issue a property tax bill.

losses resulting from an environmental disaster for which a community is not otherwise compensated under the law.

AEC, ERDA, and DOE developed various policies to implement the act. Among other things, the policies specified methods for calculating payments in lieu of taxes. The first payment policy was issued by AEC in 1958. ERDA adopted the 1958 policy, as did DOE during the first 10 years of its existence. However, in November 1987, as a result of budgetary constraints, DOE revised the policy and established more stringent requirements for the payments. This policy remained in effect until September 1993, when DOE again revised the policy to eliminate some differences between the two earlier policies. DOE recently approved two additional communities for payments, using the 1993 payment policy.

Sixteen Communities Have Received Payments

DOE's property holdings total approximately 2.4 million acres. However, less than 23 percent of this property meets the eligibility requirements for payments under the act. DOE estimates that 49 communities at 35 DOE sites are currently eligible for the payments. Through 1993, 26 of the 49 communities had applied for payments in lieu of taxes, and payments totaling $22.4 million have been made to 16 communities since the act's inception in 1946. Thirteen of these payments were approved and calculated under the policy that AEC established in 1958. The remaining three payments were approved and calculated using the 1987 policy, which established more rigid requirements applicable to the payments. In addition, 7 of the 26 communities also applied for special burdens payments. However, through the end of 1993 no community's request had been approved for these payments.

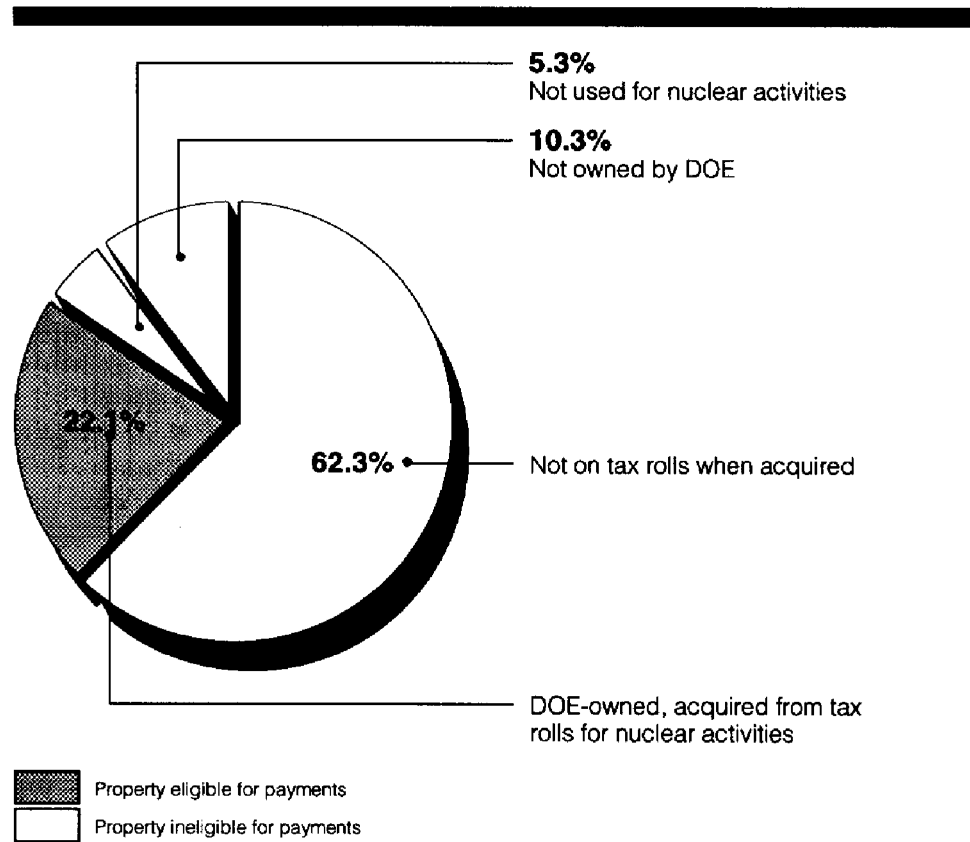
Few Communities Are Eligible for Payments Under the Act

DOE owns or controls approximately 2.4 million acres of property nationwide. In April 1994, DOE estimated that 49 communities hosting 35 of its 50 major sites were eligible for payments pursuant to the act.[5] The 49 communities host DOE sites (on about 526,000 of the 2.4 million acres) that were removed in whole or in part from local tax rolls for nuclear defense-related activities. The communities that host the remaining DOE sites do not meet the three eligibility requirements established for payments, as specified in the act. First, the great majority of DOE's property holdings (about 1.5 million acres) were not subject to local taxation before the government acquired the properties because they were in the public

[5]The number of eligible communities exceeds the number of eligible sites because some DOE sites encompass multiple jurisdictions—such as a town, a school district, and a county (or multiple counties)—with separate authorities to issue property tax bills.

domain when acquired. Consequently, the properties were not "removed" from local tax rolls, as specified by the act. Second, another 244,000 acres are not owned by DOE. These include properties that are leased for DOE's use or properties that DOE is permitted to use by other federal agencies. Third, the remaining properties (about 125,000 acres) are used for activities not authorized in the act, such as the production of oil and gas for the naval petroleum reserves and DOE's electric power marketing activities. The properties used for such purposes are not eligible for payments under the act. Figure 1 illustrates the eligibility of DOE's properties for payments under the act.

Figure 1: Eligibility of DOE's Property for Payments Under the Act



About Half of the Eligible Communities Have Applied

From the act's inception in 1946 through the end of 1993, 26 of the 49 communities that DOE estimates are eligible had applied for payments in lieu of taxes.[6] Sixteen of the 26 requests were approved, resulting in payments totaling $22.4 million as of December 31, 1993. AEC denied one request for payments in lieu of taxes because, according to AEC, the benefits received by the community from AEC's activities more than compensated the community for any tax loss associated with the government's ownership of the property. Consequently, AEC concluded that the community was not eligible to receive payments in lieu of taxes. Another eight requests were pending at DOE at the end of 1993. The one remaining request had been approved by DOE on a preliminary basis. However, the community has not received any payments because it did not pursue its request.[7]

In addition to payments in lieu of taxes, 7 of the 26 communities also requested payments for special burdens. AEC and its successors denied five of the requests, and decisions on the remaining two were pending. As a result, through 1993 no payments for special burdens had been made.

Payments to Communities Were Calculated Under Two Different Policies

Most payments to communities (13 of 16) were approved and calculated under the policy that AEC established in 1958.[8] Under the 1958 policy, a community was eligible for payments in lieu of property taxes if it (1) requested the payments and (2) incurred a tax loss resulting from the removal of property from the community's tax rolls for AEC's activities. As specified in the policy, the payments under the 1958 policy were generally calculated using (1) the property's value when acquired (the price paid for the property) and (2) the tax rate applicable to the year for which payment was being made. The policy authorized exceptions to this method of calculating payments on a case-by-case basis, and some exceptions were granted. In each case, payments were based on an updated assessment of the property's value in the condition in which it was acquired (as opposed

[6]A community's eligibility for payments can change over time. For example, as discussed in appendix I, one community lost its eligibility for payments during a 12-year period when AEC transferred its ownership of the property to the General Services Administration. Similarly, any additional sites acquired by DOE in the future may be eligible for the payments if the sites meet the other eligibility requirements specified in the act.

[7]This community also requested special burdens payments, which DOE denied in 1985. The community subsequently advised DOE that it did not wish to request payments in lieu of taxes because it was considering litigation involving DOE's denial of the special burdens request. Through 1993, the community had neither initiated litigation nor reapplied for payments in lieu of taxes.

[8]As discussed in appendix I, one community was approved for payments before the 1958 policy was implemented. However, after implementing the policy, AEC and the community negotiated revised payments that conformed to the policy.

to the price paid for the property). For example, if AEC acquired agricultural property at a cost of $6,000 in 1950, payments were generally calculated by multiplying $6,000 by the community's tax rate for the payment year. However, if a community requested and received an exception, payments were based on the property's value as agricultural property at the time the exception was granted—not the property's agricultural value in 1950.

Retroactive payments to communities were also granted under the 1958 policy. These payments covered the period between the government's acquisition of the property and a community's request for payments. The retroactive payments to the 13 communities totaled about $1,517,000.

In November 1987, DOE revised the 1958 payment policy because of budget constraints. Three communities have been approved for payments, and their payments calculated, under the 1987 policy. Concerning a community's eligibility for payments, the 1987 policy stated that DOE would make payments if (1) requested by a community and (2) the community had incurred a tax loss that exceeded the total value of all benefits derived from DOE's activities in the community. DOE termed this eligibility requirement a "gross benefits test." The three communities approved under the 1987 policy met this test, and as specified in the policy, the payments were calculated using (1) each community's current tax rate and (2) the current assessed valuation of the property in the condition in which it was acquired. This calculation method was the same as had been consistently employed (albeit on an "exception" basis) since the early 1970s.

The 1987 policy also added a new provision requiring a reduction, or "offset," in annual payments if a community received direct tax benefits as a result of DOE's activities in the community. The direct tax benefits included aid for the federally impacted school districts and sales, franchise, inventory use, or other taxes levied on DOE or its contractors by state or local taxing jurisdictions. However, DOE did not utilize this provision for the three new communities that it approved for payments under the 1987 policy because, according to DOE, the communities were not receiving any direct tax benefits.

Finally, the 1987 policy prohibited retroactive payments. Thus, unlike the other 13 communities, the 3 communities approved under the 1987 policy did not receive these payments.

Appendix I identifies the communities that have requested payments under the act through the end of 1993 and discusses in detail how AEC and its successors handled the requests and the methods used to calculate the payments. Appendix II summarizes payment information for the 16 communities that had received payments under the act through 1993.

1987 Policy Was Consistent With the Act but Raised Concerns About Inequitable Treatment of Communities

DOE's 1987 policy, including the prohibition on making retroactive payments, was consistent with the act. The act provides DOE with broad discretion in deciding whether to make the payments and in setting the terms and conditions applicable to any payments made. According to DOE officials, the policy changes were needed because of federal budget constraints. However, the policy changes and DOE's subsequent decisions implementing the 1987 policy raised concerns among a group of affected communities, which believed that new applicants were being held to more stringent standards than had been applied to communities in the past.

DOE's 1987 Policy Changes Raised Concerns About Inequitable Treatment of Communities

Because of federal budget constraints, in 1987 DOE revised its policy on making payments in lieu of taxes.[9] As discussed earlier, the revised policy

- required a "gross benefits test" to establish a community's eligibility for payments,
- required that payments be offset by the amount of direct tax benefits received by a community, and
- prohibited retroactive payments.

According to the Nuclear Communities Working Group—an organization of communities with DOE facilities, including seven of the eight communities with applications pending at the end of 1993—DOE's 1987 policy was both unfair and discriminatory because it subjected new applicants to more stringent standards than had been applied to earlier applicants. The group also expressed concern that DOE had not informed the communities about their eligibility for payments under the act. If they had been informed, the group argued, they could have applied for payments before DOE imposed the more rigorous requirements.

DOE's 1987 Policy Was Consistent With the Act

DOE's 1987 policy was consistent with the act. First, payments under the act are not entitlements. Instead, the act provides DOE with broad

[9]No change occurred in the policy on making special burdens payments. Instead, consistent with the 1958 policy, these payments were to be considered on a case-by-case basis.

discretion in deciding whether to make payments in lieu of taxes. In fact, DOE's 1987 decision to continue making payments in lieu of taxes actually placed those communities eligible for DOE payments at an advantage relative to communities hosting other federal facilities not covered by the act. As discussed earlier, although some exceptions exist, the federal government does not normally make payments in lieu of taxes for property in its possession. As a result, according to federal property management officials, communities hosting Coast Guard, Federal Aviation Administration, and Department of Defense facilities do not receive such payments.[10] Similarly, DOE cannot make payments in lieu of taxes for most of the property in its possession.

The act also provides DOE with broad discretion in determining the amount of any payments it decides to make. For example, no requirement exists that payment decisions be consistent with past practices. Instead, the act states that payments in lieu of taxes "may be in the amounts, at the times, and upon the terms" that DOE deems appropriate. Consequently, while establishing more rigorous payment requirements may have been of concern to the community group, the changes were within DOE's authority under the act.

Specifically, concerning the gross benefits test, the act does not prohibit DOE from considering benefits received by a community in establishing its eligibility for payments in lieu of taxes. The act states only that such benefits must be considered in making special burdens payments.[11] Furthermore, AEC, ERDA, and DOE have used benefits received by communities to deny payments in lieu of taxes. For example, while AEC's 1958 policy did not address how the benefits received by communities should be treated, the agency used an analysis similar to DOE's gross benefits test as the basis for denying payments in lieu of taxes to Pinellas County, Florida, in 1961. In addition, in 1977 ERDA discontinued payments in lieu of taxes to two counties in Tennessee as a result of the benefits these communities began receiving under the Atomic Energy Community Act of 1955, as amended.[12] Furthermore, according to DOE, two other communities still receiving benefits under the 1955 act cannot receive payments in lieu of taxes until these benefits have expired.

[10]Inactive Army reserve training lands are eligible for payments under the Payment in Lieu of Taxes Act of 1976.

[11]The act does not define what constitutes a "benefit."

[12]See appendix I for information on this action.

DOE's 1987 requirement to offset payments by the amount of any benefits received by a community was also consistent with the agency's broad discretion in making payments pursuant to the act. Furthermore, absent specific congressional direction on the appropriateness of offsetting payments, DOE exercised its discretion in a manner that is consistent with federal practices elsewhere. For example, the Congress requires offsets for certain payments (benefits) made to communities under the 1976 Payment in Lieu of Taxes Act.[13] While the 1976 act does not apply to DOE, it is the principal statute for cases in which the Congress has authorized exceptions to the normal federal practice of not making payments in lieu of taxes.

Furthermore, while AEC, ERDA, and DOE made retroactive payments to communities before 1987, the act does not address whether such payments should be made. According to DOE officials, DOE's 1987 decision to prohibit the payments was necessary to contain payment costs because of federal budget constraints at that time.

Finally, the act does not require DOE to notify communities of their potential eligibility for the payments. Therefore, like the policies of DOE's predecessors, DOE's 1987 policy of relying on communities to apply for payments was also consistent with the act. Such a policy is also analogous to other types of federal financial assistance, such as grants, whereby local communities bear the burden of (1) obtaining information about the potential sources of federal assistance, (2) applying for the assistance, and (3) keeping abreast of any changes that could affect them.

Concerns About DOE's Implementation of the Policy

The Nuclear Communities Working Group also raised concerns about DOE's implementation of the 1987 policy. First, the group believes that payments to some communities—specifically, the communities at the Savannah River Complex—are based on the properties' value as industrial properties rather than the value of the properties in the condition in which they were acquired, as specified in the 1987 policy.[14] Yet, according to the group, attempts by other communities to assess their properties in a similar manner have not been successful. Second, the group expressed

[13]The Payment in Lieu of Taxes Act, as amended (31 U.S.C. 6901-6907), enacted in 1976, authorized the Secretary of the Interior to make payments to local governments for certain federal lands, including lands owned by the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service, the Bureau of Reclamation, and the Forest Service. Under the act, payments must be offset by the amount of any moneys a local government receives as a result of revenue-sharing statutes specified in the act.

[14]Properties at the complex were acquired from three communities.

concern that some communities were receiving payments based on the value of their properties when acquired rather than on more current assessments of the properties' value (in the condition in which they were acquired), as specified in the 1987 policy.

DOE's actions in these areas were consistent with the 1987 policy. First, DOE has not calculated any payments on the basis of alternative property classifications. Specifically, while the Savannah River communities requested in 1988 that their payments be based on the assessed value of the properties as industrial properties, DOE denied the request. Instead, consistent with local assessment practices arising from a South Carolina statute, DOE agreed to calculate the payments on the basis of the "highest and best" use of the properties for growing timber (an agricultural use) rather than on the generic agricultural property classification that had been previously applied. While the 1987 policy did not address assessing properties according to their highest and best use (in the condition in which they were acquired), DOE officials said that the 1987 policy allowed communities to request payments based on this assessment method when doing so was consistent with local assessment practices.

And while some communities receive payments based on the value of the properties when acquired—as opposed to more recent assessments of the properties' value—this condition is not attributable to inadequacies in DOE's implementation of the 1987 policy. When DOE implemented the 1987 policy, four communities were still receiving payments based on the value of their properties when acquired, as had been previously agreed between AEC and the communities. DOE's 1987 policy "grandfathered" the existing terms and conditions applicable to these payments.[15] However, like the earlier policy, the 1987 policy allowed the communities to request a change in the method used to calculate their payments. One community applied for a change and DOE approved it, thereby allowing future payments to be based on updated assessments of the property's value in the condition in which it was acquired. Although the remaining three communities could have requested a similar change, through 1993 they had not done so.

[15]Grandfathering suggests exemption from a requirement based on previously existing conditions.

Revisions to DOE's 1987 Policy Address Some Community Concerns

In September 1993, DOE revised its payment policy again—this time to address some of the community group's concerns about inequitable treatment. Specifically, DOE eliminated the gross benefits test, modified the offset provision, and clarified guidance on assessing property according to its highest and best use. According to DOE, these revisions will increase annual payments from less than $3 million to an estimated $10 million. Because of funding limitations, DOE retained its prohibition on making retroactive payments. However, DOE is considering another policy change that would allow payments to be based on alternative property classifications. DOE estimates that the policy change, if adopted, will increase payments by an additional $10 million—to about $20 million annually. DOE plans to publish the new policy in the Federal Register for comment.

Policy Revisions Eliminate Some Differences Between the 1958 and 1987 Policies

In early 1993, the Nuclear Communities Working Group requested that the Secretary of Energy review DOE's 1987 policy on making payments under the act. The Secretary agreed and in April 1993 established a task force to determine if any policy changes should be made. The task force's recommendations were approved by the Secretary in September 1993, and the policy was revised to address several of the community group's concerns about inconsistencies between the 1958 and 1987 policies.

First, DOE eliminated the requirement for a gross benefits test to establish a community's eligibility for payments. In developing the 1987 requirement, DOE concluded that the benefits received by a community as the result of DOE's presence were "significant" and, consequently, that they should be a key factor in determining a community's eligibility for payments. DOE officials continue to believe that communities receive significant benefits from the agency's presence in their communities. However, the task force concluded that the requirement "may be too stringent," since "it is unlikely that jurisdictions requesting new or revised payments would pass the test." Furthermore, according to the task force, the communities already receiving payments had not been held to this test.[16] The task force concluded that eliminating the requirement "would enable communities submitting new or revised requests to be considered for payments in lieu of taxes on the same basis as was likely applied to communities before the [1987] policy change."

[16]As discussed earlier, AEC denied payments in lieu of taxes to Pinellas County, Florida, on the basis of an evaluation similar to the gross benefits test.

Second, DOE modified its 1987 provision requiring that payments in lieu of taxes be reduced, or offset, by the amount of direct tax benefits a community receives from DOE's activities. According to task force members, the amount of these benefits is often difficult to identify and calculate. Consequently, the task force recommended that an offset should be made only in situations that would result in duplicate payments for the "same identifiable, discrete purposes." For example, if DOE paid directly for road improvements in a community, it would reduce payments under the act by a corresponding amount to ensure that it did not pay twice for the same road improvements. In recommending the policy change, the task force concluded that payments authorized before 1987 were not subject to the offset provision. Also, according to the task force, the 1987 requirement for offsetting payments "potentially limits or even precludes payments to certain communities and may produce inconsistent results from community to community."

Third, DOE clarified its policy to specifically address calculating property assessments on the basis of the "highest and best" current use of the property (in the condition in which it was acquired). This issue is important because assessments can vary widely, depending on the "use" designation applied to a property. According to DOE, for example, agricultural property originally acquired as wheat fields at $300 an acre may now be worth $900 an acre if used for vineyards—the property's "highest and best" current use as agricultural property. While this practice was permitted under the 1987 policy, as discussed earlier, it was not specifically addressed, resulting in confusion about the appropriateness of DOE's payment methods at the Savannah River Complex. According to DOE, the clarification was needed to ensure that communities are aware that they can assess property in this manner.

According to DOE, the policy revisions are intended to balance the communities' concerns against the options available to DOE, given funding limitations. Specifically, DOE estimates that if all eligible communities apply for and receive payments in lieu of taxes, the 1993 policy revisions will increase payments from $2.7 million in 1992 to about $10 million annually—an annual increase of over $7 million.

Policy Prohibiting Retroactive Payments Was Not Changed

The task force also reviewed DOE's 1987 prohibition on making retroactive payments in response to the community group's concerns about inconsistencies between the 1958 and 1987 policies. However, unlike its decisions on the other issues, DOE concluded that the prohibition should

remain in effect. While retroactive payments were provided to all of the communities approved under the 1958 policy, in this instance the task force said that past practices "should not be an important factor in determining our [DOE's] present position." Instead, the task force concluded that retroactive payments may not be realistic, given what they described as the "austere funding limitations" that exist today. According to DOE, the retroactive payments could total between $70 million and $135 million if all eligible communities (which have not already received retroactive payments) were to receive them.[17]

DOE Is Considering Payments Based on Alternative Property Classifications

DOE is also considering making payments that are based on alternative property classifications. In contrast to AEC, ERDA, and DOE's previous practices, such a change would allow payments to be based on the highest and best use of the properties (excluding government-financed improvements), regardless of the properties' classification when acquired. For example, if comparable property in the immediate vicinity of an eligible site is used for industrial or residential purposes, payments could be based on the property's value for industrial uses or single-family homes, rather than on the property's value as farmland when acquired. According to DOE, revising the method of calculating payments in this manner could increase future annual payments in lieu of taxes by $10 million—to about $20 million annually.

According to DOE officials, in May 1994 DOE was actively studying whether the act permits payments that are based on alternative property classifications. While DOE's legal opinion is not yet available, a senior DOE attorney stated that, in his view, basing payments on alternative property classifications is within DOE's discretion under the act. Specifically, he stated that the act is very vague and that it does not address the cross-classification issue. Instead, as discussed earlier, the act states that payments in lieu of taxes generally cannot exceed the amount of taxes that would have been payable for the property "in the condition in which it was acquired." Basing payments on alternative property classifications would be a major departure from the agency's past interpretations and actions. However, in the senior attorney's view, calculating payments on the basis of alternative property classifications is probably permitted by the act. Absent congressional guidance on the subject, he said that the language in the act could be interpreted as simply prohibiting payments based on government-financed improvements.

[17]This estimate covers the entire period in which DOE's property has been off the tax rolls (i.e., payments back to the date of each site's acquisition).

DOE Intends to Publish Latest Policy for Comment

DOE issued its revised policy in March 1994. According to DOE officials, the new policy will be used to process the pending community requests.[18] Because of concerns that communities have not been adequately informed about past payment policies, DOE plans to publish the revised policy in the Federal Register in late 1994 for review and comment by all interested parties.

Conclusions

The government has acquired vast tracts of property for activities related to the research, design, production, and operation of facilities used to produce the world's first atomic bomb. While the federal government generally does not make payments in lieu of taxes, in 1946 the Congress provided AEC (and its successors) with broad discretion to compensate communities that had incurred a tax loss due to the removal of property from local tax rolls for these purposes. About 22 percent of DOE's total property holdings meet the eligibility requirements established in the act.

DOE has used its discretion under the act to respond to changes in policy objectives over time. For example, in 1987 DOE tightened its payment policy in response to budgetary concerns. And although the federal government's fiscal situation was largely unchanged, in 1993 DOE relaxed its payment requirements to address communities' concerns about inconsistent treatment under the act.

DOE's 1993 policy initiatives will increase annual payments from less than $3 million to at least $10 million—and possibly $20 million—at a time when the government is seeking ways to reduce its expenditures. Furthermore, although the initiatives are intended to enhance the equity of DOE's payment decisions, they may be viewed as contributing to further disparities since, under the act, communities hosting about 78 percent of DOE's property are not eligible to receive the payments. Absent legislative guidance on the relative importance of fiscal versus other policy objectives, we are unsure whether DOE's recent policy initiatives conform to current congressional priorities.

[18]Eight requests were pending as of December 31, 1993. According to DOE officials, as of mid-May 1994, DOE had approved two of the communities for payments in lieu of taxes under the new policy.

Matter for Congressional Consideration

Because it has been almost 50 years since the Atomic Energy Act of 1946 was enacted, the Congress may wish to reassess the broad authority the act provided DOE to make payments in lieu of taxes. Specifically, the Congress could consider

- retaining DOE's existing discretionary authority,
- providing additional guidance on whether DOE's current initiatives are consistent with congressional priorities, or
- amending the act to either provide payments in lieu of taxes to all communities, including those not currently eligible, or eliminate payments to all communities if such action is deemed appropriate.

Agency Comments

As requested, we did not obtain written agency comments on a draft of this report. However, we discussed the contents of this report with DOE's Director of the Office of Financial Policy, the Assistant General Counsel for General Law, and other cognizant DOE officials. These officials generally agreed with the information presented but did not provide substantive comments on the matter for congressional consideration. We incorporated their comments where appropriate.

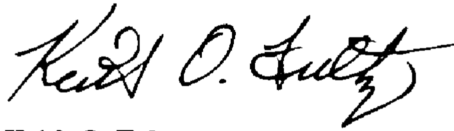
Scope and Methodology

To satisfy the objectives of this review, we reviewed applicable sections of the Atomic Energy Act of 1946, as amended, as well as other acts of Congress authorizing assistance payments to communities. We also interviewed DOE management, finance, and property officials at DOE headquarters and at its operations offices in Albuquerque, New Mexico; Chicago, Illinois; Oak Ridge, Tennessee; Richland, Washington; San Francisco, California; and Savannah River, South Carolina, as well as officials at DOE's Pittsburgh Naval Reactor Office, Pennsylvania. Personnel at these locations are responsible for implementing the act for the 26 payment requests received through 1993. In addition, we interviewed responsible local officials from 16 communities, including officials on the Nuclear Communities Working Group. The 16 communities were selected to obtain views from communities that either (1) have received payments or (2) have applications pending. Finally, we reviewed pertinent DOE and local community records on each payment request as well as documentation related to the community group's concerns and DOE's actions to address the concerns. We performed our work between April 1993 and April 1994, in accordance with generally accepted government auditing standards.

As agreed with your offices, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of Energy; the Director, Office of Management and Budget; and other interested parties. We will also make copies available to others upon request.

This work was conducted under the direction of Victor S. Rezendes, Director, Energy and Science Issues, who can be reached on (202) 512-3841, if you or your staffs have any questions. Major contributors to this report are listed in appendix III.

Sincerely yours,



Keith O. Fultz
Assistant Comptroller General

List of Requesters

The Honorable Hank Brown
The Honorable Larry E. Craig
The Honorable John Glenn
The Honorable Slade Gorton
The Honorable Patty Murray
The Honorable Jim Sasser
Unites States Senate

The Honorable Marilyn Lloyd
The Honorable David S. Mann
The Honorable Bill Sarpalius
The Honorable Dan Schaefer
The Honorable David E. Skaggs
The Honorable C. W. Bill Young
House of Representatives

Contents

Letter		1
Appendix I Information on Payments Made to 16 Communities Under the Act Through December 31, 1993		22
Appendix II Summary of Payments to 16 Communities Under the Atomic Energy Act of 1946, as Amended		32
Appendix III Major Contributors to This Report		34
Table	Table I.1: Actions Taken on Requests for Financial Assistance Under the Atomic Energy Act of 1946, as Amended, as of December 31, 1993	30
Figure	Figure 1: Eligibility of DOE's Property for Payments Under the Act	5

Abbreviations

AEC	Atomic Energy Commission
DOE	Department of Energy
ERDA	Energy Research and Development Administration
PILT	payment(s) in lieu of taxes

Information on Payments Made to 16 Communities Under the Act Through December 31, 1993

Payments to most communities (13 of 16) were calculated using a policy that the Atomic Energy Commission (AEC) established in 1958. As a result, the payments were generally based on a (1) property's value when acquired and (2) tax rate applicable to the year for which payment was being made. Some exceptions were granted, and in these cases, payments were based on updated assessments of the properties' value in the condition in which they were acquired. Retroactive payments covering the period between the government's acquisition of the property and a community's request for payments were also made to the 13 communities. In 1987, the Department of Energy (DOE) revised the policy on making payments. As had been the case for the earlier exceptions, the new policy specified that payments to new applicants would be based on recent property assessments. However, DOE established other requirements related to the payments, including a prohibition on paying retroactive payments to new applicants. The payments to the three remaining communities were calculated under the 1987 policy. Finally, while some communities have applied, no payments have been made for special burdens under the act. (Table I.1 summarizes agency actions on community requests for payments under the act.)

The Majority of Communities Were Approved for Payments During AEC's Tenure

According to available documentation, 11 communities applied for payments in lieu of taxes during AEC's tenure, which lasted from 1946 into 1974. AEC denied one of the requests. Through 1993, payments to the remaining 10 communities totaled about $21.5 million, or about 96 percent of all payments made to communities under the act. During AEC's tenure, two communities also requested payments for special burdens. AEC denied both requests.

The first request for payments in lieu of taxes was from DuPage County, Illinois, in 1948,[1] well before AEC's policy on making payments was in place. AEC approved the county's request in 1951 and calculated the amount of annual payments by applying the assessed value of the property when it was acquired in 1948 to the community's tax rate at that time.

AEC issued its policy on making payments under the act in August 1958. According to the Secretariat's memorandum, AEC's general policy was to make payments in lieu of property taxes if a local government requested the payments and if a tax loss had occurred due to the removal of property from the community's tax rolls. Such payments were to be calculated by either (1) multiplying the assessed valuation of the property at the time it

[1]DuPage County is a taxing jurisdiction at the Argonne National Laboratory.

was acquired, times the tax rate in effect in the community during the applicable tax year, or (2) establishing a fixed yearly amount, if preferred and agreed to by the parties, based upon the taxes the community received for the property in the last year the property was on the community's tax rolls. Retroactive payments for the period between the government's acquisition of the property and a community's request for payments in lieu of taxes were also authorized. Requests seeking exceptions to the general policy or payments for special burdens incurred by the community as a result of AEC's presence were to be considered on a case-by-case basis.

Shortly after AEC formalized its policy on making payments under the act, DuPage County requested AEC to revise its method for calculating the county's annual payments. Instead of using the tax rate in effect in 1948, as had been previously agreed, the county requested that AEC calculate its 1957 and 1958 payments using the county's property tax rates during that period. Calculating payments on the basis of the (1) tax rate applicable to the year for which payment was being made and (2) property's value when acquired was consistent with AEC's 1958 policy; consequently, AEC approved the change.[2]

AEC followed the same approach in calculating annual payments to seven of the remaining nine communities that it approved to receive payments in lieu of taxes after its 1958 policy was in place. The seven communities were the Borough of West Mifflin, the West Mifflin Area School District, and Allegheny County, Pennsylvania; the counties of Aiken, Allendale, and Barnwell, South Carolina; and the Borough of Middlesex, New Jersey.[3] The communities are taxing jurisdictions at the Bettis Atomic Power Laboratory, the Savannah River Complex, and the Middlesex Sampling Plant, respectively.

The two other communities, the counties of Roane and Anderson in Tennessee,[4] requested exceptions to AEC's general policy on calculating payments. AEC approved the exceptions. As a result, instead of using the

[2]Although AEC approved this change, it negotiated lower, fixed payments ($13,225 annually) with the county. Available documentation did not indicate why this action had been taken. However, AEC later agreed to recalculate the payment and, beginning in 1965, payments were calculated using the assessed value of the property when it was acquired and the tax rate in effect during each subsequent tax year.

[3]The Borough of Middlesex received a one-time payment in 1968. Subsequent payments were not made because the borough lost its eligibility for payments when AEC transferred the Middlesex Sampling Plant to the General Services Administration. DOE reacquired the property in 1980 and is using the property again for AEC-related activities. Consequently, according to DOE, the borough is eligible to apply for additional payments under the act.

[4]The two counties are taxing jurisdictions at the Oak Ridge Complex.

value of the properties when they were acquired, AEC agreed to calculate each of the annual payments using updated assessments of each property's value (in the condition in which the property was acquired).[5] We could not locate documentation describing AEC's rationale for approving these exceptions. However, a February 1977 Energy Research and Development Administration (ERDA) memorandum indicates that the exceptions were granted to reflect changes in local tax and assessment procedures, such as local statutes requiring that taxes be based on the most recent property assessment available.[6]

AEC denied one request for payments in lieu of taxes. The application—made by Pinellas County, Florida, in 1960—sought payment for taxes lost due to the removal of property at the Pinellas Peninsula Plant from the county's tax rolls. AEC conducted an evaluation and determined that the benefits received by the county from activities at the plant more than compensated the county for any tax loss associated with the government's ownership of the property. Consequently, AEC concluded that the county was not eligible to receive payments in lieu of taxes.[7]

AEC also approved retroactive payments to each of the 10 communities it approved for payments in lieu of taxes. The retroactive payments covered the period between the government's acquisition of the property (the point at which the property was removed from a community's tax rolls) and the community's request for payments. This period ranged from 3 years for DuPage County, Illinois, to 22 years for Anderson County, Tennessee. The 10 retroactive payments totaled about $1,315,000; they ranged from $9,132 for Allendale County, South Carolina, to $333,343 for Barnwell County,

[5]Payments to the two Tennessee counties were subsequently terminated. The counties lost their eligibility for payments under the act when they began receiving payments under another statute—the Atomic Energy Community Act of 1955. The 1955 act, as amended, authorized payments to seven communities at the Oak Ridge, Hanford, and Los Alamos facilities. Most of the seven communities had been created, owned, and operated by the federal government in connection with the Manhattan Project during World War II. Consequently, payments under the 1955 act were intended to enhance the communities' self-sufficiency so that the federal government could eventually transfer its ownership and control of the communities to local entities and private purchasers.

[6]AEC also approved an exception for Aiken County, South Carolina. Although AEC originally approved payments to the county based on the property's value when acquired in the early 1950s, in 1972 the county requested that AEC calculate future payments on the basis of a recently completed assessment of the property's value. The change increased annual payments to the county from $19,238 to $50,367.

[7]While AEC collected information about the benefits received by communities for possible use in making payment decisions, according to available documentation, such information did not appear to have been used for the 10 communities AEC approved for payments. We could not determine why Pinellas had been treated differently. However, an early AEC document indicates that AEC was considering using such information on a case-by-case basis.

South Carolina.[8] AEC calculated the payments by applying the assessed value of each property at the time it was acquired to either the tax rate (1) when acquired or (2) applicable for each year the property had been off the community's tax rolls.

Finally, in addition to requests for payments in lieu of taxes, each of two communities—the counties of Roane and Anderson in Tennessee—requested payments of about $1 million annually for unspecified special burdens associated with AEC's presence in their communities. In 1974, AEC denied both requests, indicating that adequate support had not been provided to justify the payments.

Two Communities Were Approved for Payments During ERDA's Tenure

ERDA succeeded AEC in 1974. During its 3-year tenure, ERDA received and approved two new requests for payments in lieu of taxes. Through 1993, payments to these two communities totaled about $400,950. ERDA also processed two additional requests for special burdens payments. Both requests were denied.

ERDA adopted AEC's 1958 policy for making payments under the act. Specifically, ERDA's policy was to make payments to local governments upon request and to the extent that a "tax loss" had actually occurred. Like AEC, ERDA specified that payments were generally to be calculated using the assessed value of the property when it was acquired and the tax rate applicable to the year for which payment was being made. Exceptions to the general method of calculating payments and requests seeking special burdens payments were also to be handled on a case-by-case basis.

Given increases in property values over time and the corresponding desire on the part of some communities to use more recent assessments of the property owned by ERDA, exceptions to the 1958 policy on calculating payments became the normal practice during ERDA's tenure. Specifically, according to available documentation, ERDA received two requests for payments in lieu of taxes. ERDA approved both as exceptions to the 1958 policy and calculated each on the basis of updated assessments of the properties' value (in the condition in which the properties were acquired). The two requests were from the Livermore Valley Joint Unified School District in California and the McCracken County Public Schools in Kentucky. The communities are taxing jurisdictions at the Livermore

[8]The amount of a retroactive payment depends on the size and value of the property as well as the length of time the property was off the tax rolls.

Laboratory Complex and the Paducah Gaseous Diffusion Plant, respectively.

Allendale County, South Carolina, which had been approved by AEC to receive payments based on the value of the property when it was acquired in the early 1950s, also requested ERDA to recalculate its payments using a recently completed reassessment of the property. ERDA approved the county's request as an exception to the 1958 policy, as it had done in the Livermore and McCracken County cases. The changes increased annual payments to Allendale County from $1,000 to about $2,200. None of the other five communities (originally approved by AEC) that were still receiving payments based on the assessed value of the properties when they were acquired requested similar exceptions. As a result, ERDA continued to calculate payments to these communities as AEC had done in the past.

Like AEC, ERDA also approved retroactive payments to the two new applicants that it approved for annual payments in lieu of taxes. The school district in California received about $71,000 for the 34-year period that property at the Livermore Laboratory Complex had been off the tax rolls. Similarly, the school system in Kentucky received about $32,000 for the 21-year period that property at the Paducah Gaseous Diffusion Plant had been off the tax rolls. ERDA calculated the payments using the (1) assessed value of the properties when they were acquired and (2) tax rate applicable for each year the properties had been off the communities' tax rolls.

Finally, in addition to requests for payments in lieu of taxes, two communities—the Borough of West Mifflin in Pennsylvania and the McCracken County Public Schools in Kentucky—requested payments for special burdens incurred as a result of ERDA's presence in their communities.[9] ERDA denied both requests, indicating that the communities had not adequately evaluated the benefits and burdens accruing to them as a result of ERDA's activities. Consequently, according to ERDA, it had no basis for determining whether additional payments for special burdens were justified.

[9]Because of the timing of the request, the Borough of West Mifflin's request was received by AEC and processed by ERDA.

Four Communities Have Been Approved for Payments During DOE's Tenure

DOE succeeded ERDA in 1977. Between 1977 and the end of 1993, 11 additional communities applied for payments in lieu of taxes. As of December 31, 1993, DOE had approved payments totaling about $476,994 to four of these communities. Decisions about the remaining seven requests had not been reached. DOE also denied one request for special burdens payments, and two other requests are pending. DOE's early payment decisions, including its 1979 approval of payments to one community, were made under the policy established by AEC in 1958. DOE revised the policy in 1987 and approved three communities under the new policy.

DOE's Actions Under the 1958 Policy

During the first 10 years of its existence, DOE approved one additional community for payments following the policy AEC established in 1958. According to available documentation, the request—submitted on behalf of Pike County and the Seal and Scioto Townships, the Scioto Valley Local School District, and the Pike County Vocational School—was the only request for payments in lieu of taxes received during this period.[10] As had become the norm under ERDA, DOE approved the request as an exception to the 1958 policy. Consequently, the payment was calculated using an updated assessment of the value of the property (in the condition in which it was acquired). Like its predecessors, DOE also made a retroactive payment of about $94,000 to the county for the 24-year period that the property had been off the community's tax rolls.

Furthermore, in 1983 DOE approved an exception for Barnwell County, South Carolina (originally approved by AEC), when the county requested that DOE revise the method for calculating its annual payments to reflect property assessment values at that time. The change increased the county's annual payments from $61,743 to $201,553. None of the other four communities that were still receiving payments based on the assessed value of the property when it was acquired applied for a change in calculating their payments.[11] As a result, DOE continued to calculate payments to these communities as AEC and ERDA had done in the past.

According to available documentation, between 1977 and 1987 only one community—the County of Alameda, California—requested a special burdens payment. The request sought $1.4 million for law enforcement costs related to demonstrations at the Livermore Laboratory Complex between 1982 and 1984. DOE denied the county's request because, in its

[10]The communities are taxing jurisdictions at the Portsmouth Gaseous Diffusion Plant in Ohio.

[11]The four communities are the West Mifflin Area School District, the Borough of West Mifflin, and Allegheny County in Pennsylvania and DuPage County in Illinois.

view, the enforcement actions did not represent "a burden beyond that ordinarily associated with a Federal Facility."[12]

DOE Revised the Policy on Making Payments

In 1987, DOE revised the policy applicable to making payments under the act. Analogous to AEC's 1960 denial of payments to Pinellas County, Florida, the 1987 policy stated that DOE would make payments to new applicants if the tax loss incurred by a community exceeded the total value of all benefits derived from DOE's activities. DOE termed the requirement a "gross benefits test." If a community met this test, payments were to be calculated using the current (1) tax rate and (2) assessed valuation of the property in the condition in which it was acquired. This calculation method was the same as had been consistently employed (albeit on an "exception" basis) since the early 1970s. However, DOE added a new provision requiring a reduction, or "offset," in annual payments if a community received direct tax benefits as a result of DOE's activities in the community.[13]

Communities already receiving payments were "grandfathered," meaning that the communities were exempted on the basis of previously existing conditions and thereby (1) did not have to pass the "gross benefits test" to establish their eligibility for future payments and (2) continued to receive payments without any deduction for the direct benefits they receive from DOE's activities in their communities. However, the 1987 policy specified that if any of these communities requested a major change in the method of calculating their future payments,[14] the community's payment would be reduced by the amount of direct tax benefits it received. Finally, unlike previous policy and practice, the 1987 policy specified that DOE would not make retroactive payments to future applicants.

[12]The County of Alameda also requested payments in lieu of taxes. However, the county subsequently withdrew the request because it was considering litigation involving DOE's denial of the special burdens payment. Through the end of 1993, the county had neither initiated litigation nor reapplied for payments in lieu of taxes.

[13]Under the 1987 policy, direct tax benefits included aid for federally impacted school districts and sales, franchise, inventory use, or other taxes levied on DOE or its contractors by state or local taxing jurisdictions.

[14]According to DOE, a major change involved, for example, an adjustment in the amount of land subject to payment or a reclassification of land to a new tax category. Changes in the amounts to be paid on the basis of jurisdiction-wide adjustments to tax (1) assessments or (2) rates were not viewed as major changes.

DOE's Actions Under 1987 Policy

DOE applied the 1987 policy to the three New York communities it approved for payment after that date.[15] For example, DOE established that the tax loss incurred by the three communities exceeded the value of the benefits each derived from DOE's presence in the communities—the "gross benefits test"—thereby establishing each community's eligibility for payments. DOE also attempted to offset the communities' payments to reflect direct benefits received. However, it did not do so because, according to DOE, the communities were not receiving any direct tax benefits. Finally, as specified in the 1987 policy, each of the three new applicants was denied retroactive assistance payments.

DOE also applied the revised policy to the West Mifflin Area School District in Pennsylvania when the school district requested that DOE revise the method for calculating its annual payments. Instead of using the assessment of the property when acquired in the late 1950s, as had been approved by AEC, the school district requested that future calculations be based on a recent assessment of the property (in the condition in which it was acquired). DOE approved the change. However, consistent with the 1987 policy on major changes in the method of calculating payments, DOE reduced the school district's payment by $60,000—the estimated amount of tax benefits received as a result of DOE's activities in the community. Revising the method for calculating the school system's payments increased annual payments to the community in 1991 from $41,722 to $149,243. As of December 31, 1993, the three remaining communities still receiving payments on the basis of the assessed value of the property when it was acquired,[16] as had been approved by AEC, had not applied for a change in calculating their payments. Consequently, no change had been made.

As of December 31, 1993, eight additional communities had applied for assistance payments under the act. These communities include the counties of Benton, Franklin, and Grant in Washington; the counties of Hamilton and Montgomery in Ohio; Jefferson County (together with the Jefferson County School District) in Colorado; the Township of Wayne in New Jersey; and Carson County in Texas.[17] Two of the new applicants,

[15]The three communities—the Town of Lewiston, the Lewiston-Porter Central School District, and Niagara County—are taxing jurisdictions at the Niagara Storage Site in New York.

[16]The three communities are the Borough of West Mifflin and Allegheny County in Pennsylvania and DuPage County in Illinois.

[17]These communities are taxing jurisdictions at the Hanford Complex, the Fernald Feed Materials Production Center, the Mound Facility, the Rocky Flats Plant, the Wayne Interim Storage Site, and the Pantex Facility, respectively.

Hamilton and Jefferson Counties, are also seeking payments for special burdens related to uranium and plutonium contamination at the DOE sites in their communities.[18]

Table I.1: Actions Taken on Requests for Financial Assistance Under the Atomic Energy Act of 1946, as Amended, as of December 31, 1993

Agency	Type of action	Year	Community	Facility
AEC	Approved payments in lieu of taxes (PILT)	1950	DuPage County, IL	Argonne National Laboratory
	Approved PILT	1958	Roane County, TN	Oak Ridge Complex
	Revised PILT calculation method[a]	1959	DuPage County, IL	Argonne National Laboratory
	Denied PILT	1961	Pinellas County, FL	Pinellas Peninsula Plant
	Approved PILT	1965	Anderson County, TN	Oak Ridge Complex
	Approved PILT	1966	Allegheny County, PA	Bettis Atomic Power Laboratory
	Approved PILT	1966	Borough of West Mifflin, PA	Bettis Atomic Power Laboratory
	Approved PILT	1966	West Mifflin Area School District, PA	Bettis Atomic Power Laboratory
	Approved PILT	1968	Borough of Middlesex, NJ	Middlesex Sampling Plant
	Approved PILT	1969	Aiken County, SC	Savannah River Complex
	Approved PILT	1969	Allendale County, SC	Savannah River Complex
	Approved PILT	1969	Barnwell County, SC	Savannah River Complex
	Revised PILT calculation method	1972	Aiken County, SC	Savannah River Complex
	Denied special burdens	1974	Anderson County, TN	Oak Ridge Complex
	Denied special burdens	1974	Roane County, TN	Oak Ridge Complex
ERDA	Approved PILT, denied special burdens	1975	McCracken County Public Schools, KY	Paducah Gaseous Diffusion Plant
	Denied special burdens	1975	Borough of West Mifflin, PA	Bettis Atomic Power Laboratory
	Approved PILT	1976	Livermore Valley Joint Unified School District, CA	Livermore Laboratory Complex
	Revised PILT calculation method	1977	Allendale County, SC	Savannah River Complex
DOE	Approved PILT	1979	Pike County and entities, OH[b]	Portsmouth Gaseous Diffusion Plant
	Revised PILT calculation method	1983	Barnwell County, SC	Savannah River Complex

(continued)

[18]As discussed in the letter to this report, as of mid-May 1994 DOE had approved payments in lieu of taxes to the Township of Wayne, New Jersey, and Grant County, Washington. The other six requests were still pending at that time.

Agency	Type of action	Year	Community	Facility
DOE	Denied special burdens[c]	1985	Alameda County, CA	Livermore Laboratory Complex
	Approved PILT	1990	Town of Lewiston, NY	Niagara Falls Storage Site
	Approved PILT	1990	Lewiston-Porter Central School District, NY	Niagara Falls Storage Site
	Approved PILT	1990	Niagara County, NY	Niagara Falls Storage Site
	Revised PILT calculation method	1992	West Mifflin Area School District, PA	Bettis Atomic Power Laboratory
	Application pending for PILT		Benton County, WA	Hanford Complex
	Application pending for PILT		Franklin County, WA	Hanford Complex
	Application pending for PILT[d]		Grant County, WA	Hanford Complex
	Application pending for PILT		Montgomery County, OH	Mound Facility
	Application for PILT and special burdens pending		Hamilton County, OH	Fernald Feed Materials Production Center
	Application for PILT and special burdens pending		Jefferson County (and School District), CO	Rocky Flats Nuclear Weapons Plant
	Application pending for PILT[e]		Township of Wayne, NJ	Wayne Interim Storage Site
	Application pending for PILT		Carson County, TX	Pantex Facility

[a]Although AEC agreed to revise the county's payments on the basis of the value of the property when it was acquired and the tax rate in effect for each payment year, AEC negotiated lower, fixed payments with the county. As discussed earlier, we could not determine why this action had been taken. However, AEC later agreed to recalculate the payment, and beginning in 1965, payments were calculated in this manner.

[b]Pike County submitted the request on behalf of itself and the Seal and Scioto Townships, the Scioto Valley Local School District, and the Pike County Vocational School.

[c]Alameda County also applied for payments in lieu of taxes on behalf of itself and other taxing jurisdictions at the Livermore Laboratory Complex. However, the county subsequently withdrew the request because it was considering litigation involving DOE's denial of the special burdens payment. Through the end of 1993, the county had neither initiated litigation nor reapplied for payments in lieu of taxes.

[d]DOE approved the county's request on April 25, 1994.

[e]DOE approved the township's request on February 7, 1994.

Summary of Payments to 16 Communities Under the Atomic Energy Act of 1946, as Amended

Community	Amount of retroactive payment	Amount of most recent payment (for tax year 1992 or 1993 unless noted)	Total payments as of December 31, 1993
DuPage County, IL	$ 52,900	$ 26,425[a]	$ 1,078,056
Roane County, TN	127,588	129,417[b]	789,091
Anderson County, TN	296,967	65,289[b]	811,038
Allegheny County, PA	46,476	19,277	408,177
Borough of West Mifflin, PA	39,610	13,732	300,773
West Mifflin Area School District, PA	118,302	149,243	1,303,305
Borough of Middlesex, NJ	68,157	2,478[c]	70,636
Aiken County, SC	222,451	808,123	6,417,428
Allendale County, SC	9,132	36,689	218,854
Barnwell County, SC	333,343	1,713,451	10,121,176
McCracken County Public Schools, KY	32,000	17,604	231,901
Livermore Valley Joint Unified School District, CA	70,811	4,802[d]	169,051
Pike County and entities, OH[e]	99,280	29,712[e]	461,950
Town of Lewiston, NY	0	920	4,283
Lewiston-Porter Central School District, NY	0	3,441[f]	9,582
Niagara County, NY	0	1,179[g]	1,179
Total	**$1,517,018**	[h]	**$22,396,480**

(Table notes on next page)

[a]This payment is for the 1991 tax year. The 1992 tax year payment was being processed as of December 31, 1993.

[b]The payment is for tax year 1977. The counties of Roane and Anderson in Tennessee are not currently eligible to receive assistance under the Atomic Energy Act of 1946, as amended. This is because, since 1977, the communities have been receiving financial assistance under another act—the Atomic Energy Community Act of 1955, as amended. According to DOE, the communities will be eligible to receive annual payments in lieu of taxes in fiscal year 1996.

[c]The Borough of Middlesex, New Jersey, received a one-time payment in 1968. Subsequent payments were not made because the borough lost its eligibility for payments under the act when AEC transferred the Middlesex Sampling Plant to the General Services Administration. In 1980, DOE reacquired the property for use under the Atomic Energy Act of 1946, as amended. Although currently eligible for payments in lieu of taxes, the community has not applied for additional payments.

[d]Payment relates to the 1983 tax year, the last bill DOE received from the Livermore Valley Joint Unified School District in California.

[e]The payment is for Pike County, Ohio, the Seal and Scioto Townships, the Scioto Valley Local School District, and the Pike County Vocational School. The payment relates to the 1991 tax year, the last bill DOE received on behalf of these communities.

[f]Payment relates to the 1990 tax year, the last bill DOE received from the Lewiston-Porter Central School District, New York.

[g]Niagara County, New York, received a one-time payment for the 1988 tax year. Through 1993, the county had not requested additional payments.

[h]Total omitted due to the wide range of dates when the most recent payments were made—as early as 1968 and as late as 1993.

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