

Volume 20, Number 1 January/February 2005

## Northwest Compact/State of Utah

## Envirocare Purchase (Including Cedar Mountain Environmental) Completed by Investor Group

## New Owners Withdraw Class B & C Disposal Application

## **Completion of Sale of the Company**

On February 1, it was announced that the sale of Envirocare of Utah, Inc. by Khosrow Semnani to a private investor group led by Lindsay, Goldberg and Bessemer has been completed. Other investors in the group include local Utah firms Creamer Investments and Peterson Partners. (For additional information on the sale, see LLW Forum News Flash titled, "Semnani Enters Into Agreement to Sell Envirocare in Early 2005," January 2005.) The transaction, it was announced, includes the purchase of the Cedar Mountain Environmental facility that will now be merged into Envirocare. (See LLW Notes, January/ February 2003, p. 9.) Cedar Mountain, which is located on land adjacent to Envirocare and which was owned by former Envirocare President Charles Judd, had proposed to build a new lowlevel radioactive waste facility in Utah and was seeking the necessary permits to do so. (See LLW *Notes,* May/June 2004, pp. 11 -12.)

## Withdrawal of Envirocare's B & C Disposal License Application

In conjunction with the completion of the sale, Envirocare issued a press release stating that its new owners are in favor of banning the disposal of Class B and C low-level radioactive waste in the State of Utah and that the company has presented a letter officially withdrawing its application to accept B & C waste to Governor Jon Huntsman, Jr., Utah Senate President John Valentine, Speaker of the Utah House of Representatives Greg Curtis, and Utah Department of Environmental Quality Executive Director Dianne Nielson. "I am *(Continued on page 5)* 

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Key to Abbreviations			
U.S. Department of Energy	DOE		
U.S. Department of Transportation	DOT		
U.S. Environmental Protection Agency	EPA		
U.S. General Accounting Office			
U.S. Nuclear Regulatory Commission			
Naturally-occurring and accelerator-produced			
radioactive material	NARM		
Naturally-occurring radioactive material	NORM		
Code of Federal Regulations			

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## Low-Level Radioactive Waste Forum, Inc.

## LLW Forum to Meet in Salt Lake City, Utah in March 2005

## **Envirocare Site-Tour Planned**

The next meeting of the Low-Level Radioactive Waste Forum will take place on March 14 – 15 in Salt Lake City, Utah. The meeting is being hosted by the State of Utah and sponsored by Envirocare of Utah. A site visit to the Envirocare facility will be held in conjunction with the meeting on the afternoon of the  $15^{th}$ . A meeting bulletin and registration form can be found on the LLW Forum's web site at www.llwforum.org. Persons interested in attending the meeting should download the forms and send them in at their earliest convenience.

Thereafter, the LLW Forum will meet on September 22 – 23 in Las Vegas, Nevada. The meeting is being hosted by the Rocky Mountain Low-Level Radioactive Waste Board and will include a site visit to Yucca Mountain and/or the Nevada Test Site on September 21.

#### 2006 Meetings

The winter 2006 meeting of the LLW Forum will be held in Austin, Texas. The meeting is being hosted by the State of Texas and sponsored by the Midwest Interstate Low-Level Radioactive Waste Commission. The fall 2006 meeting will be sponsored and hosted by the Southeast Compact Commission for Low-Level Radioactive Waste Management and will be held at a location, to be determined, in the Southeast Compact region.

#### 2007 Meetings

The Southwestern Low-Level Radioactive Waste Commission has recently volunteered to sponsor and host the winter 2007 LLW Forum meeting in San Diego, California at the Bahia Hotel. The meeting will be held on March 19 – 20.

The LLW Forum is still looking for volunteers to host and sponsor its fall 2007 meeting. Interested parties should contact the organization's Executive Director, Todd D. Lovinger, at (202) 265-7990 to discuss hosting said meeting.

## States and Compacts continued

#### (Continued from Cover)

pleased to formally withdraw Envirocare's application to accept B & C waste in Utah," said Steve Creamer, Chief Executive Officer of Envirocare. "We will work with the Governor and the legislature to ban B & C wastes in Utah." Lance Hirt, a partner of Lindsay, Goldberg, and Bessemer and the new Chair of Envirocare's Board of Managers said "[a]s the new ownership group, we are committed to banning B & C waste in the State of Utah . . . [and] we are proud to be the newest members of the Utah business community." Joel Peterson, a partner in Peterson Partners, echoed the sentiment saying "[w]e are pleased to be one of the local owners of Envirocare . . . We respect and share the view of Utahns in forever banning B & C waste in the State of Utah."

#### Formation of Envirocare Charitable Trust

Envirocare's press released announced that the company is creating a charitable trust "whose mission will be to preserve and enhance the environment of Utah." Envirocare has pledged initial funding of \$1 million to this trust, which will remain separate from other charitable entities that Envirocare currently supports. Utah resident Fraser Bullock, former Chief Operating Officer and President of the Salt Lake Olympic Organizing Committee, will serve as Executive Director of the trust. "We should all be proud of the steps that Envirocare has taken to stop B & C waste from coming to Utah," said Bullock. "For the record. I am not a financial investor in Envirocare, but I am investing my time and expect that by working together with the company's leadership, we will play a significant role in enhancing Utah's environment."

#### **Legislative Action**

Also in early February, legislation was introduced in the state Senate that would ban Class B and C low-level radioactive waste disposal in the State of Utah and would prohibit a company or person from even applying to accept such waste. The

bipartisan measure, Senate Bill 166, was authored by state Senator Patrice Arent (D) and is being sponsored by 4 Republican Senators and 2 other Democratic Senators. The bill has been assigned to the Senate Revenue and Taxation Committee. That same committee recently reported out a bill, SB 24, that incorporates the recommendations of the Utah Hazardous Waste Regulation and Tax Policy Legislative Task Force. (See LLW Forum News Flash titled, "Local Media Alleges that Envirocare Purchaser Supports Class B & C Waste Ban," January 24, 2005.) That bill, which was unanimously sent to the Senate floor for debate but then had a hold placed on it by its sponsor, includes amendments to the state's environmental quality and radioactive waste tax codes that would increase regulatory oversight of hazardous waste sites and fines for violations. In addition, the proposed amendments would impose a tax on the disposal of federal mixed waste, which to date has been free of state taxation. It does not, however, address the disposal of Class B and C waste.

## Background

#### Granting of Envirocare's B and C Disposal

**License** On July 9, 2001, the Executive Secretary of the Utah Radiation Control Board issued a final decision to approve—subject to specified limitations and conditions—an application by Envirocare of Utah to receive and dispose of Class B and C low-level radioactive waste at its facility in Tooele County, Utah. Shortly thereafter, Envirocare issued a statement that "[a]fter careful consideration, Envirocare has determined it will not seek legislative or gubernatorial approval for its Class B and C low-level radioactive waste proposal." (See LLW Notes, July/August 2001, pp. 6 - 9.) The license expires in 2006, but may be renewed by the Division of Radiation Control upon request by Envirocare. Under state law, approval from the legislature and Governor are required before the company can begin accepting such waste. To date, Envirocare has not actively solicited such approval.

## States and Compacts continued

**Governor Huntsman's Position on Class B & C Waste Disposal** According to local press reports, Governor Huntsman supports banning the disposal of Class B and C waste in Utah altogether, but wants to do so by working with the legislature to pass tough legislation. By the time the current legislative session is finished, he recently said, "we should no longer be discussing the possibility of B and C waste entering the state." During the campaign for the Republican nomination, Huntsman criticized his opponent, Nolan Karras, for having close ties to Envirocare owner Khosrow Semnani. Over the years, Semnani's monetary contributions to Utah politicians have been an issue raised by opponents of the company. Then, last month, it became public that Huntsman had received \$40,000 in political donations from Creamer. Huntsman initially indicated that he would keep the money, but later determined to return the money declaring through Chaffetz that access to his office was not for sale.

#### The Utah Hazardous Waste Task

**Force** Although Envirocare publicly announced that it would not seek further approval for its Class B and C disposal license, the issue became very contentious within the state. Then, in early 2003, following the introduction of a variety of bills on that and other radioactive and hazardous waste disposal issues, the Utah legislature approved the formation of the Utah Hazardous Waste Regulation and Tax Policy Legislative Task Force. (See *LLW Notes*, March/April 2003, pp. 6-7.) The task force was given 19 months to study a wide range of nuclear waste issues in Utah, including whether Utah should accept more hazardous waste, how Utah facilities compare financially to out-of-state facilities, what obligations Utah has to accept waste based on interstate agreements, how to long-term manage waste facilities, whether to impose additional or higher taxes on certain types of waste management and disposal, and whether to impose a proposed ban on class B and C waste disposal.

The task force held its final meeting at the state Capitol on October 19, 2004 to review its draft report and legislation being proposed by the task force. (See *LLW Notes*, September/October 2004, pp. 6 - 7.) At the meeting, State Senator Patrice Arent (D) introduced a bill for task force consideration that would have banned an entity from accepting Class B and C low-level radioactive waste. Following discussion, however, the task force voted against the proposed bill. Had the proposal—which lost by a single vote passed, the committee would have sent it to lawmakers for further action. Despite the vote, however, an Envirocare official was quoted in the local press as stating that the company "has no plans" to pursue renewal of the Class B and C waste disposal permit.

During the course of the October 2004 meeting, the task force approved its report on radioactive waste issues and determined to forward to the Legislature a proposed bill to address several issues as a result of the audit of the Department of Environmental Quality and to eliminate a tax exemption on mixed waste. (See LLW Notes, May/June 2004, pp. 8 - 10.) The task force approved language in the report that declares that low-level radioactive waste operations in the state "pose a lower risk than many other chemical and mining facilities that currently operate in the state." In addition, the task force included a recommendation in its report that, every five years beginning in 2006, the Radiation Control Board review whether enough money is being set aside to manage the Envirocare site after closure. The bill also contains a similar closure fund review provision for Utah's commercial hazardous waste facilities. However, the task force decided to defer any legislation governing ownership of the site during the "perpetual care" time period, which begins 100 years after cleanup and closure.

For additional information about the task force members and the draft task force report (including the draft legislation), go to the Utah legislative website at http:// www.le.state.ut.us/asp/interim/ Commit.asp?Year=2003&Com=TSKHWR

## Letter from Steve Creamer, New Envirocare President and CEO, to Customers

On February 4, Steve Creamer—the new President and CEO of Envirocare of Utah, Inc.—sent a letter to customers concerning the recent sale of the company and future business activities. The text of the letter is as follows:

On behalf of the new ownership group of Envirocare, I would like to take this opportunity to introduce myself and our team. Our investment group is comprised of Lindsay Goldberg & Bessemer of New York and local Utah investors Peterson Partners and Creamer Investments.

We are proud to be among the newest members of the Utah business community and look forward to working together with you. I hope to meet you in person.

I want to underscore our commitment to you that our number one priority is to offer you, our customer, the most reliable, safe and secure disposal method in the industry and look forward to doing all we can to meet your waste management needs now and in the future. Under the direction of Al Rafati, our business development team will continue to meet your needs developing a stronger, more committed working relationship with you.

As you may be aware, we have also purchased Cedar Mountain Environmental and our intention is to merge it into Envirocare. We have established a charitable trust to advance environmental programs in the State of Utah. We have also announced that we support the ban of B & C waste in Utah and will no longer pursue it. This was well received by the State's political parties. Given the deep political opposition to B & C waste in Utah, and to be respectful of our community, we felt the appropriate thing to do was to support this ban. We believe that by taking this position it has strengthened our standing in Utah and will allow us to serve you better.

Governor Huntsman and the State legislative leadership gave high praise for our decision and stated publicly that they all look forward to working with us.

Our website, <u>www.envlle.com</u>, has highlights of the sale and announcements. I want you to know that I am always available to answer any of your questions or address any of your concerns. I look forward to working with you.

For additional information, contact Bill Sinclair, Deputy Director, Utah Department of Environmental Quality, at (801) 536-4255.

A copy of Envirocare' press release can be found on the company's web site at www.envirocareutah.com.

## National Council on Radiation Protection and Measurements

## NCRP Hosts Low-Activity Waste Meeting in Virginia

The National Council on Radiation Protection and Measurments (NCRP) will host its 2005 Annual Meeting, "Managing the Disposition of Low-Activity Radioactive Materials," at the Crystal City Marriott in Arlington, Virginia on March 30 – 31. The meeting is open to everyone. Persons interested in attending should register on-

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## States and Compacts continued

## **Rocky Mountain Compact**

# Rocky Mountain Compact Puts New Web Site On-Line

The Rocky Mountain Low-Level Radioactive Waste Board announces their new Web Site. The site can be found at http://www.rmllwb.us/. It contains information and links regarding the Rocky Mountain Compact, low-level radioactive waste, the export of waste from the region, the import of waste into the region, and links to other sites. The new web site includes an application form under Waste Export as another option to completing applications for the export of waste from the region. The application is a PDF document that needs to be printed, filled out, and sent to the Board with the appropriate application fee.

For additional information, please contact Vicki Green of the Rocky Mountain Board at (303) 825-1912.

# *Rocky Mountain Compact/State of Colorado*

# Clean Harbor Submits Radioactive Materials License

In early February, the Colorado Department of Public Health and Environment announced that it has received a radioactive materials license application from Clean Harbors Deer Trail for the disposal of certain limited low-level radioactive waste at its facility located approximately 65 miles east of Denver. The application requests permission to allow the Deer Trail Facility, also known as the Highway 36 Hazardous Waste Landfill, to take waste from environmental cleanup projects such as the Denver Radium streets project. The company also has a hazardous waste permit renewal application pending that would allow the facility to receive naturally occurring radioactive materials and technologically enhanced radioactive materials. These materials can be generated when the area where they naturally occur is disturbed, by natural or human activity, or when radionuclides are removed from drinking water. Due to the low level of radiation in such materials, the Department of Public Health and Environment's Hazardous Materials and Waste Management Division will determine whether a Resource Conservation and Recovery Act (RCRA) permit may be adapted to provide appropriate protections and controls for these materials.

The radioactive materials license application and hazardous waste permit renewal application are being reviewed concurrently. A public meeting to present this information is expected to be held in late spring of 2005.

## Southeast Compact

# Southeast Commission to Present Hodes Award to William Dornsife

On March 1, the Southeast Compact Commission for Low-Level Radioactive Waste Management will formally present its second Richard S. Hodes, M.D. Honor Lecture Award to William P. Dornsife at the Waste Management Symposium in Tucson, Arizona. Following presentation of the award, Dornsife will deliver a distinguished lecture in which he will describe his contributions and explain their significance to low-level radioactive waste management in the United States.

"The Commission is pleased to recognize Mr. Dornsife for the role he has played in solving lowlevel radioactive waste management problems in the United States through the development of

## States and Compacts continued

innovative regulatory and technical concepts and his leadership in radiation safety and education," said Richard Hunter, Chair of the Southeast Compact Commission. "The Commission commends Mr. Dornsife. His excellent work in the field of low-level radioactive waste management is worthy of recognition."

Dornsife is currently Vice President for Nuclear Affairs and Corporate Radiation Safety Officer of Waste Control Specialists, LLC. He served as the Director of the Pennsylvania Bureau of Radiation Protection and has been an instructor at Penn State University's Nuclear Science and Technology course for Chemistry and Physics educators. Dornsife has also been an active participant in the Conference of Radiation Control Program Directors where he authored many technical documents and served as a member and Chair of the organization's committee on low-level radioactive waste management.

The Hodes Honor Lecture Award is presented to an individual, organization or company that contributed in a significant way to improving the technology, policy or practices of low-level radioactive waste management in this country. It was established in 2003 to honor the memory of the Southeast Compact Commission's late Chair, Dr. Richard Hodes—an innovator in the fields of medicine, law, public policy, and technology and a strong proponent of innovation in the field of low-level radioactive waste management. Hodes served as Chair of the Southeast Compact Commission from its inception in 1983 until his death in 2002. The first Hodes award was given to H.W. "Bud" Arrowsmith at the Waste Management Conference in 2003. (See LLW *Notes,* January/February 2004, p. 8.)

The Southeast Compact Commission is soliciting nominations for the 2006 Richard S. Hodes, M.D. Honor Lecture Award. Nominations must be submitted by June 30, 2005. Direct nominations and inquiries to: Ted Buckner, Associate Director, Southeast Compact Commission, 21 Glenwood Avenue, Suite 207, Raleigh, NC 27603 (phone—919/821-0500; email tedb@secompact.org) or visit the Southeast Compact Commission's web site at www.secompact.org.

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line at www.ncrp.com. A copy of the agenda and recommended accommodations can be found on the same web site.

Some of the topics scheduled to be discussed at the two-day meeting include the following: riskinformed radioactive waste classification and reclassification; managing the disposition of potentially radioactive scrap metal; a review of international standards, recommendations and practices; U.S. experiences in managing lowactivity radioactive materials; and formulating tomorrow's public policy. The second day of the meeting will include an update of regulatory efforts and roundtable discussion—including a discussion of the role of state regulatory agencies in the disposition of low-activity radioactive waste.

NCRP, which was chartered by the U.S. Congress in 1964, "seeks to formulate and widely disseminate information, guidance and recommendations on radiation protection and measurements which represent the consensus of leading scientific thinking." Among the missions cited by the Council is "the responsibility to facilitate and stimulate cooperation among organizations concerned with the scientific and related aspects of radiation protection and measurements."

## Texas Compact/Texas

# Texas Issues Third Notice of Administrative Deficiencies to WCS

On January 14, pursuant to state regulations, the Texas Commission on Environmental Quality (TCEQ) issued to Waste Control Specialists a Third Administrative Notice of Deficiency (ANOD) in regard to the company's August 2004 application to operate a low-level radioactive waste disposal facility in Andrews County, Texas.

The first notice of administrative deficiency was issued on September 17, 2004. WCS responded thereto by letter dated October 17, 2004. (See *LLW Notes*, September/October 2004, p. 1.) The second notice was issued two months later—on November 17—to which WCS responded by letter dated December 17. (See *LLW Notes*, November/December 2004, p. 1.)

## The Third Notice

Under Texas regulations, "[t]he test of administrative completeness is a determination whether there is sufficient information to allow a technical review . . . If the administrative review results in a finding that the information presented is a statement of the applicant's belief or conclusion, unsubstantiated by reviewable data, the application does not meet the test of sufficient information and is administratively deficient."

A letter accompanying the third notice states, in part, "While many issues raised in the last administrative review have been satisfactorily resolved in terms of administrative completeness, others remain unresolved, or have only been partially resolved."

Four attachments accompanied the letter. The first, titled "Administrative Deficiencies," identifies information that must be submitted to

make the application administratively complete. The second, titled "Additional Information," notes areas where additional information/ clarification will be necessary to further the comparative-merit and technical reviews of the application. According to the letter, these areas are not part of the agency's determination of administrative incompleteness, but the agency is notifying WCS of such areas in advance of subsequent reviews in order to expedite the overall review process. The third and fourth attachments include requests for clarification or additional information on the financial sections of the application that WCS has designated as confidential.

## **Regulatory Guidelines**

Pursuant to state regulations, WCS has 30 days from the date of TCEQ's letter to submit the requested information. Failure to timely do so will cause the application to be returned to WCS and removed from further review by the agency.

State regulations allow for the potential for three ANOD's prior to a determination of administrative completeness by the TCEQ. According to TCEQ staff, a decision on administrative completeness is expected by March 2005. If the application is found complete, then a public meeting will be held in the potential host county. Completion of the merit review and written evaluation is expected in May 2005.

Under the time schedule set out by state regulation, it is anticipated that TCEQ Commissioners will issue a license or denial in December 2007.

A copy of the Third Notice of Administrative Deficiency has been posted on the Texas Commission on Environmental Quality's website at http:// www.tnrcc.state.tx.us/permitting/wasteperm/ uicrw/rad/.

For additional information, please refer to the ANOD itself or contact Susan Jablonski of the Texas Commission on Environmental Quality at (512) 239-6731.

# Texas Legislators Weigh in on Fernald Proposal

On January 10, 15 legislators from the Senate of the State of Texas sent a letter to Eduardo Sanchez, Commissioner of the Texas Department of Health Services, regarding a proposal by Waste Control Specialists to allow waste from the Fernald Environmental Management Project in Ohio to be disposed of in the state. All of the signatories to the letter, which was copied to Governor Rick Perry and various other parties including WCS, are Chairs of different Senate committees.

Under WCS' proposal, the company would store and dispose of material from Fernald, mostly uranium mill tailings, at its site in Andrews County, Texas. That site already treats, monitors and stores low-level radioactive material. The company is seeking both a license to dispose of the uranium tailings and to have its current license amended to expand the amount of radioactive material that it can store.

The letter states as follows:

We have been monitoring the proposal to amend Radioactive Material License No. L04971 for the purpose of accepting, storing, and disposing of 11e.(2) radioactive waste from the U.S. Department of Energy (DOE) Fernald Environmental Management Project in Ohio. This site will be at or near a site currently being considered for low-level radioactive waste disposal through House Bill 1567 as approved by the Texas Legislature in 2003.

The state of Texas, through the Texas Legislature, has been very deliberate in the consideration of the policy, safety, and financial issues surrounding the disposal of radioactive waste in our state. The Fernald proposal is not required to follow guidelines set forth in HB 1567 and it greatly exceeds what was contemplated by lawmakers when we passed that legislation.

While Texas is the only state considering the Fernald proposal, Texas stands to receive no benefit from accepting this waste. If Texas is going to be the radioactive waste disposal site of last resort for the Department of Energy, then it should receive a substantial financial benefit for its willingness to serve the nation and/or the nuclear energy industry in this way. Mechanisms should be put in place like those set forth at the disposal site in Barnwell. South Carolina. The State of South Carolina has financed a large part of the state's public education needs from the revenue generated at a similar site. Those revenues are guaranteed to be at least \$24 million per fiscal year.

Granting this amendment amounts to a commitment by the State of Texas to be the radioactive waste disposal state of first and last resort. That decision belongs to the Legislature.

We request this proposal be deferred until the Legislature has an opportunity to review and direct your agency and others with regard to the appropriate public policy, safety, and financial matters associated with this proposal.

The Texas Senate Natural Resources Committee took up the issue in early February and is discussing various related issues, such as how much compensation the state should receive if WCS were to be allowed to take the waste and whether adequate financial safeguards and bonds are in place to protect the integrity of the site.

## U.S. Congress

# Comments Drafted re Shared Liability Legislation

Recently, officials from the Appalachian Compact Commission shared comments that they have drafted on legislation that was introduced during the last session of Congress "to establish a threshold of shared liability among all member states of the ten regional [low-level radioactive waste disposal] compacts to ensure that the entire burden of liability does not rest on the shoulders of the states hosting storage facilities." The bill, S. 2518 was introduced on June 15, 2004 by U.S. Senator Benjamin Nelson. It was not voted on during the 2004 legislative session. (See *LLW Notes*, May/June 2004, pp. 28 – 30.)

As drafted, the bill would amend the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act to provide that states establishing regional low-level waste disposal facilities shall share the long-term liability for any damages caused by radioactive releases from such regional facilities. The legislation provides that it would take effect 3 years after the date of enactment.

## The Draft Bill

As drafted, the legislation provides that Section 212 of the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act (42 U.S.C. 2021d; Public Law 99-240) is amended by, among other things, adding the following language at the end:

(4) is granted only if the compact provides that all party states to the compact are jointly and severally liable for the cost of long-term liability incurred in connection with the radioactive release from a regional facility in a host state of the compact (in excess of fund[s] available from the extended care and long-term liability fund of the host State and from property and third-party liability insurance), based on the proportionate share of the total volume of waste placed in the regional facilities by generators located in each party state, except that this paragraph shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on those manifests for the region during the same year.

**Comments from Nelson** According to a press release issued by Senator Nelson's office, the legislation was drafted to address "what he considers to be a fairness flaw in the federal lowlevel radioactive waste compact law and with recent congressional action to reclassify certain high-level waste as low-level waste." Nelson signed similar legislation when he was Governor of Nebraska. That legislation passed the Nebraska Unicameral and was enacted by three of the four other member states of the Central Compact.

**Comments from CRS** Nelson asked the Congressional Research Service (CRS) to study shared liability provisions contained in existing low-level radioactive waste disposal compacts. In a June 7 memo, CRS provided a brief explanation of several recurring compact features in regard to shared liability. The following is an excerpt from the memo:

... [M]any of the compacts make clear that the liability of a given Commission does not transfer to the party states.

Many of the compacts also contain general provisions stating that liability under existing law will remain unaltered, except as may be provided elsewhere in the compact. The other applicable law[s], such as the Resource Conservation and Recovery Act [42 U.S.C. s. 6901-6991k] and the Comprehensive Environmental Response and Cleanup Liability Act [42

## Congress continued

U.S.C. s. 9601-9675], will each impose their own schemes of liability.

Finally, several of the compacts set out a system of shared liability among party states. Others opt to prevent attachment of any additional liability than would be permitted under existing law . . .

Attached to the memo is a table that cites liability provisions of each of the individual low-level radioactive waste compacts. (For a copy of the table, see *LLW Notes*, May/June 2004, pp. 29 - 30.)

# Appalachian Compact Commission's Comments

The following comments are direct quotes from the memo by officials of the Appalachian Compact Commission as they related to the underlined language of the draft bill. Some of the less significant comments, such as those referring to grammar, have been omitted.

"the party states ... are jointly and severally liable" This means that each of the party states, individually, has the duty of fully paying the liability, and the person aggrieved by a release can sue all or any one of them for the liability. This is inconsistent with the concept of proportionate liability contained elsewhere in the amendment. Proportional liability would be characterized as "several" liability.

"for the cost of long-term liability" It is unclear whether this refers to liability to third parties, or as between the host state and other party states. The adjective "long-term" suggests that the intention is to cover clean-up and institutional controls that might be required to address a release, but not harm to third parties.

"in a host state of the compact" This language seems to exclude a regional facility that is not located in one of the compact states. There does not seem to be a sound policy reason to treat releases from regional facilities inside and outside the compact states differently.

"based on the proportionate share" As noted, proportionate liability is inconsistent with joint and several liability. The drafter may intend joint and several liability towards third parties, and proportionate liability as among the party states. If so, different language should be used.

"of the total volume of waste" The obligations of the party states should be based on volume and curie content. Volume alone may not be a sound basis on which to allocate responsibility for a release.

"placed in the regional facilities" In a situation where there are multiple regional facilities, this would apply the aggregate proportions over all facilities to the liabilities associated with a release at a single facility.

"by generators located in each party state" The term "generator" should be defined. Waste may be processed or stored for decay before being sent for disposal. Also, orphan waste may be sent for disposal by parties other than the generator.

"except that this paragraph shall not apply to a party state with a total volume of waste" To be more accurate, the language should refer to generators in each party state. Volume and curie content should be used as a basis for determining responsibility. It is unclear that there is any sound policy reason to exclude states from which small amounts of waste are sent for disposal.

"recorded on low-level radioactive waste manifests" It is unclear whether this

## Congress continued

means manifests arriving at the facility . . . or on initial manifests. Perhaps the MIMS database records should be specified.

"for any year" It is unclear whether one low year excludes a party state from all liability, or whether the party state is excluded from that year only and all years (in some of which it may be included) are aggregated for purposes of determining proportionate responsibility. This also creates an ambiguity as to whether responsibility is apportioned according to historical disposal at the facility, or yearby-year according to current disposal. The former makes more sense and should be specified.

"is less than 10 percent of the total volume recorded on those manifests for the region during the same year" There does not appear to be a sound policy reason to exclude states with low amounts (either based on volume or curie content) of waste.

For additional information, please contact Richard Janati of the Pennsylvania Department of Environmental Protection at (717) 787-2163.

## American Nuclear Society

## ANS Issues Revised Position Statement on LLRW Disposal

The American Nuclear Society (ANS) recently issued a revised position statement, dated November 2004, on the disposal of low-level radioactive waste. In the statement, ANS disputes the "wait and see approach" recommended by the U.S. General Accounting Office in its June 2004 report titled, "Low-Level Radioactive Waste Disposal Availability Adequate in the Short-Term, but Oversight Needed to Identify Any Future Shortfalls." (See *LLW Notes*, May/June 2004, pp. 1, 18-22.) Instead, ANS advocates immediate action to provide for low-level radioactive waste disposal capability, including both access and capacity.

The ANS statement supports maintaining the framework of the Low-Level Radioactive Waste Policy Act and the compact system, but recommends prompt federal actions to address transportation issues and the facilitation of development of new sites—including the possibility of (1) making sites that are currently managed by DOE available for commercial waste disposal and of (2) allowing commercial companies to establish sites on federal land under the regulatory authority of the U.S. Nuclear Regulatory Commission. The statement also recommends the continued use of waste minimization techniques and proper packaging, handling and storage of waste.

The complete text of the ANS revised position statement on the disposal of low-level radioactive waste is as follows:

The American Nuclear Society (ANS) believes that it is in the best interests of our country and society to develop and maintain adequate disposal capability for all classes of commercially produced Low-Level Radioactive Waste (LLRW). Accordingly, the ANS recommends prompt actions to ensure that adequate and safe LLRW disposal capability continues to be maintained. LLRW is waste produced from the use of radioactive materials in industrial, academic, research and medical activities, nuclear power generation and site decontamination. It does not include spent nuclear fuel or any other material considered high level radioactive waste.

(Continued on page 16)

## Courts

*Sierra Club v. State of South Carolina DHEC* 

# Environmentalists Oppose Chem-Nuclear Permit Renewal

On February 16, the Sierra Club and Environmentalists, Inc. went to the South Carolina Administrative Law Court in Columbia to challenge the renewal of a state permit for the Barnwell low-level radioactive waste disposal facility. In so doing, they argued that the 235-acre facility that has been accepting waste since 1971 should improve its disposal practices or close the facility.

While it is not expected that the permit will be denied, environmentalists involved in the case hope that their appeal will force changes at the facility. For instance, they believe that "[m]uch safer technologies for managing these dangerous wastes are now available," says Ruth Thomas, President of Environmentalist, Inc. They plan to argue that a better way to manage the waste would be to place it on above-ground, concrete pads and seal it in waterproof chambers.

However, a spokesperson for Chem-Nuclear, the company that operates the facility, says that the site is safe "and that it's unrealistic to substantially change its design." The spokesperson points out that "[t]he site has operated safely for over 30 years" and that Chem-Nuclear has changed its practices over the years as new technology comes available. For instance, instead of putting packages of waste directly into trenches, Chem-Nuclear now puts waste inside of concrete vaults prior to burial.

The legal challenge to Chem-Nuclear's permit renewal is a first in regard to the Barnwell facility. The South Carolina Department of Health and Environmental Control has issued permits and renewals for the site in the past with little or no opposition. State of Washington v. U.S. Department of Energy

# Court Rules in Favor of State re Hanford Dispute

On January 24, a U.S. District Judge issued a ruling that bars the U.S. Department of Energy from shipping transuranic waste to the Hanford Nuclear Reservation unless it meets certain storage requirements. In so ruling, the court found that the state has the authority to regulate the storage of transuranic waste at the Hanford facility.

### **Background/Issues**

The State of Washington sued the U.S. Department of Energy in 2003 to block shipments of the untreated waste to Hanford out of concern that it could be stranded at the site. DOE responded to the suit by arguing that the state does not have authority to regulate the storage of that particular waste at Hanford and that, in any event, the waste would eventually be shipped to the Waste Isolation Pilot Plant in New Mexico for long-term disposal.

On January 11, the parties appeared before the federal court to argue the case. DOE asserted that once the waste is designated as being destined for WIPP, storage requirements do not apply. The State of Washington disagreed, however, arguing that it has the authority to prohibit the storage of waste already restricted from land disposal. The waste may be safe to be stored at WIPP, asserted the state, but that does not mean it is safe to be stored at Hanford. The fact that such waste "has been sitting at Hanford for30 years is the reason we're here today," said that state's attorney.

At the hearing, the state expressed particular concern over the so-called remote handled waste, which cannot be handled by workers. The federal

## Courts continued

government does not yet have the authority or necessary permits from the State of New Mexico to store such waste at WIPP asserted the state, such that there is no clear path for its departure from Hanford. DOE countered, however, that it has in the past designated waste for storage or long-term disposal at sites before having the necessary permits. Moreover, said DOE, the department already has authority from the U.S. Environmental Protection Agency—and has submitted an application to New Mexico officials—to dispose of the remote-handled waste at WIPP.

#### The Court's Decision

The court disagreed with DOE's argument, instead finding that the storage exemption applies only to waste at WIPP. State hazardous waste regulations pertaining to treatment standards and disposal and storage prohibitions remain in effect at Hanford with respect to transuranic mixed waste already stored there and intended to be shipped there, ruled the court.

Waste shipments to Hanford had already been halted as a result of another lawsuit filed by the state. In that suit, the state alleges that the federal government failed to complete an adequate environmental impact statement to support its decision to ship offsite, transuranic low-level and mixed low-level waste to Hanford.

However, the recent court decision, according to state officials, gives the state the authority to force federal officials to abide by a negotiated schedule for preparing mixed transuranic waste already at Hanford for shipment to the Waste Isolation Pilot Plant in New Mexico. State officials also assert that the ruling puts the state in a better negotiating position for keeping out waste that should not be permanently stored at Hanford.

#### (Continued from page 14)

Safety, security, and cost issues arise when LLRW accumulates at thousands of sites licensed to possess radioactive material. Currently, there is limited disposal capability because no new facilities have been created following the compact system established by the LLRW Act of 1980. After July 1, 2008, there will no longer be a disposal site available for the two higher classes of LLRW produced in 36 states, and only one site for the lower class of LLRW produced in these states. Actions need to be taken soon to provide for adequate LLRW disposal capability, instead of waiting and monitoring the situation, as recommended by the General Accounting Office. Capability must include both access and capacity. The lack of disposal capability could stop or impede various research, medical and industrial activities and have a deleterious effect on public health and quality of life.

Accordingly, the ANS supports:

1. Prompt Federal government actions to resolve issues regarding state and federal responsibility and control over LLRW disposal, including transportation to disposal sites and facilitating development of such sites.

One approach that could be considered is to make current LLRW disposal sites managed by the DOE available for commercial LLRW. If and when additional disposal capability is needed, sufficient LLRW disposal capacity should be established on federal land to accommodate the needs of the nation. The facilities would be developed by commercial companies and regulated by the Nuclear Regulatory Commission in accordance with the applicable safety regulations.

## Federal Agencies and Committees

## U.S. Department of Energy

# DOE Completes its Review of MIMS in Response to GAO Report

Recently, in December 2004, DOE completed a review of the Manifest Information Management System (MIMS) that it undertook in response to a June 2004 report by the U.S. Government Accountability Office (GAO) on low-level radioactive waste disposal availability in the United States. The report, which is titled "Low-Level Radioactive Waste: Disposal Availability Adequate in the Short Term, but Oversight Needed to Identify Any Future Shortfalls," was written in response to a request from the U.S. Senate's Committee on Energy and Natural Resources. (See *LLW Notes*, May/June 2004, pp. 1, 18-22.) In the report, GAO stated that it did not use MIMS to determine recent disposal volumes or to analyze sources of LLRW due to perceived shortcomings in the usefulness and reliability of the system and because the system does not capture all of the desired data. DOE, in a written response that was included in the appendix of the report, took issue with GAO's characterization of the department's management of MIMS and with GAO's recommendation that NRC take over management of the database.

The work that was recently completed by DOE included fixing inaccuracies in the Envirocare of Utah data as listed on MIMS, as well as the making of additional changes in order to provide historical Envirocare data and summary volumetric data for other waste disposed at Envirocare. Comments and recommendations from members of the LLW Forum—as provided in response to a request from DOE at the organization's September 2004 meeting in Buffalo, New York—were analyzed and used by DOE during its review of the system.

A brief summary of GAO's concerns (as identified in the June 2004 report) and changes made in response to DOE's recent review of MIMS are included below.

For additional information, please contact Douglas Tonkay of DOE at (301) 903-7212.

### **GAO's Original Comments**

In its June 2004 report, GAO stated that it did not use MIMS because the system has "shortcomings in its usefulness and reliability" and does not capture all of the desired data. For instance, MIMS does not capture the large quantities of LLRW shipped to commercial disposal facilities by DOE, nor does it include information on storage of waste and volume of waste reduction. This is all information that GAO believes would be useful to include in the system. Moreover, GAO noted that inconsistencies were identified between what the disposal facility operators claimed had been disposed of at their facilities and what was actually recorded in MIMS. For instance, GAO found a large discrepancy in MIMS data reported by Envirocare of Utah as compared with directlyobtained information. In addition, discrepancies regarding the origins of waste identified in the system were also found. GAO pointed out that, "while DOE takes some steps to ensure that it accurately uploads operator-supplied data into MIMS, it does not perform other systematic quality checks on the data, such as 'reasonableness' checks, cross tabulations, or exceptions reports." As part of its report, GAO made a recommendation to the Secretary of Energy to halt dissemination of information until internal control weaknesses in MIMS were fixed. In addition, GAO recommended that Congress consider directing NRC to perform data gathering and oversight of commercial LLRW disposal.

#### **DOE's Response**

Actions Taken by DOE Despite GAO's recommendation, DOE chose to keep MIMS operational based on feedback from users and the support of the LLW Forum. The department,

however, placed a notice on-line warning users of data issues and instituted a plan to correct data inaccuracies and take measures to reduce the likelihood of future errors. In addition, longerterm measures were put in place by DOE to address other known data issues in the system. In this regard, DOE notes that, "Over the years, MIMS users have discovered errors in reported data, particularly when brokers are involved ... Discrepancies, when known, were fixed, but comments received from the user community suggest that some errors remain."

From June through December 2004, DOE's efforts focused on fixing inaccuracies with existing data as reported by GAO. In this regard, a meeting was held with Envirocare in August 2004 at which time the process used by Envirocare to develop their input data files to MIMS was discussed. It was subsequently determined that MIMS data was found to have records from Envirocare that were outside the scope of MIMS, e.g. mixed LLW, LLW from DOE generators, and naturally-occurring radioactive material (NORM) labeled as LLW. In response thereto, Envirocare provided a complete data file of all disposal records and information to identify specific generators and waste streams such that DOE now has a full understanding of the various waste classes tracked in the Envirocare information management system and their coding.

After a review of the data provided by Envirocare, it was determined that the primary root cause of data inaccuracies was a lack of consistency over time in selection of reported waste streams when extracting information from the Envirocare information management system. To fix the data in MIMS, Envirocare provided a complete set of all their waste stream records and information to identify specific waste generators and streams. DOE then ran the full set of Envirocare waste data through a filter to sort out only those records falling in the non-DOE LLW category. DOE then replaced all the Envirocare records in the previous version of MIMS with the new set of records. Review and validation of data was complete in mid-December 2004, when the new MIMS data was posted online. At the same time, DOE removed the user warning message.

#### **Results of the DOE Review and Actions**

**Taken** In an internal agency paper outlining work done on MIMS in response to the GAO report, a DOE official describes the results of the department's review of the system and actions taken in response thereto as follows:

"In June 2004, the MIMS database had nearly 22,963 Envirocare records representing 19.0 million cubic feet of LLW and 6,000 curies of activity. The review found that 5,420 records representing over 5.1 million cubic feet of waste were errantly included in MIMS. These were removed along with 237 duplicate Envirocare records from October 2000. The review found 1.052 other LLW records were left out. These were added to MIMS. A check of the other disposal records in MIMS confirmed that no duplicate records exist for the 3 other LLW disposal sites. Another 10,600 records, representing 8.9 million cubic feet of LLW, were added to MIMS for LLW disposed at Envirocare between 1992 and 1998. There are now 27,911 Envirocare records in MIMS, representing a total of 23.4 million cubic feet of LLW and 8,000 curies of activity."

"The June 2004 GAO report indicated that there was a difference of 5.3 million cubic feet of waste between MIMS and information reported to them by Envirocare for 1999-2003 an inconsistency of 51%. As a result of this data review, the summary waste volumes now in MIMS were compared for the years 1992 through 2003 with the volumes Envirocare provided to GAO, and the difference between the total volumes is now 0.2%."

"A new introduction was added to MIMS to provide users with a better understanding of the scope of information provided. The introductory page has a link to a static data table containing summary waste volumes for other waste disposed at Envirocare not reported in MIMS. This

complementary information is provided for those users that are looking for information on MLLW, NORM, 11.e(2), and DOE LLW disposed at Envirocare. The MIMS Internet website reflected these changes on December 14, 2004."

### **Future MIMS Activities Planned by DOE**

At the LLW Forum's September 2004 meeting, DOE officials requested feedback from the organization's membership on the quality, reliability and usefulness of MIMS data. Comments from individual members were transmitted to DOE and used in the department's recent review of the system. The department, however, plans additional work in response to these comments. Beginning in early 2005, DOE plans to begin work with the LLW Forum's previously established Manifest Information Management System working group to assist the department in maintaining MIMS. Based on the above-identified feedback from LLW Forum members provided after the organization's last meeting, the following issues may be addressed by the group:

- 1 specific data issues on state of origin for waste sent via brokers and processors;
- 2 specific data issues on waste generator class, e.g., brokered waste from individual generators all lumped together under the "industry" class;
- •3 additional user reports, e.g., waste stream data; bulk vs. containerized waste disposed at Envirocare; and
- $\cdot 4$  inclusion of MLLW records.

In addition, the internal agency paper written by a DOE official states as follows:

"Efforts to correct data inaccuracies in the Envirocare data have led to a better understanding of the MIMS database. The data structure was developed based on individual specifications for each disposal site operator and has remained unchanged for nearly 20 years, while information management technology has matured by several generations. There is now a standard manifest in use, which wasn't available at the time MIMS was designed. For this reason, the data structure is antiquated and inefficient. For a relatively small investment, MIMS could be overhauled with flexibility to add new sites, waste types, etc. if funding is available. Envirocare has agreed to give DOE disposal data for all waste types for filtering in the future to avoid data inaccuracies of the types found."

# Samuel Bodman Sworn In as New DOE Secretary

On February 1, 2005, Samuel Wright Bodman was sworn in as the 11<sup>th</sup> Secretary of Energy after the United States Senate unanimously confirmed him on January 31, 2005. Bodman was selected by President George W. Bush in mid-January to replace former-Energy Secretary Spencer Abraham. As the new Energy Secretary, Bodman leads the Department of Energy with a budget in excess of \$23 billion and over 100,000 federal and contractor employees.

Bodman, who is a relative newcomer to energy policy and particularly to nuclear weapons policy, previously served as Deputy Secretary of Commerce and as Deputy Secretary of the Treasury. He received his doctorate degree from the Massachusetts Institute of Technology and served as a professor of engineering there. Prior to his positions in the Bush administration, he served as the Chief Executive Officer of the specialty chemical maker Cabot Corporation.

In announcing Bodman's nomination, President Bush said "In academics, in business and in government, [Bodman] has shown himself to be a problem solver who knows how to set goals, and he knows how to reach them. He will bring to [the DOE] a great talent for management and the precise thinking of an engineer."

# DOE Exercises Management Option re WIPP

In mid-January, the U.S. Department of Energy announced that it has decided to exercise a fiveyear option in the Washington TRU Solutions, LLC (WTS) contract to allow the company to continue operating and managing the Waste Isolation Pilot Plant (WIPP). By exercising the option in the WIPP contract that was competitively bid in 2000, WTS will now be contracted to run WIPP through September 30, 2010. The estimated value of the contract over the five-year time frame is approximately \$704 million.

The WIPP facility—which is located inCarlsbad, New Mexico—is the first underground repository that is certified to safely and permanently dispose of transuranic radioactive waste left from the research and production of nuclear weapons. It represents a cornerstone of DOE's environmental cleanup program.

"We are very pleased to take this step," said Deputy Secretary of Energy Kyle McSlarrow. "Continuing this contract is very important to the ongoing cleanup of transuranic waste at our nation's defense facilities. WTS has a sustained record of excellent performance and has signed up to new, aggressive performance goals that will accelerate the disposal of TRU waste in a safe and timely manner."

The new performance goals, which affect the period from 2006 to 2010, include the following:

- dispose 20,000 additional cubic meters of TRU waste at WIPP;
- complete the TRU waste cleanup at some storage sites 5 to 10 years early; and
- cleanup 70 percent of all legacy TRU waste by the end of 2010, compared with 53 percent targeted during prior planning.

## U.S. Nuclear Regulatory Commission

# Two New NRC Commissioners Take Office

On January 21, Gregory Jaczko was sworn in as a Commissioner of the U.S. Nuclear Regulatory Commission in a brief ceremony at the NRC in Rockville, Maryland. Shortly thereafter, on January 25, Peter Lyons was also sworn in as an NRC Commissioner. The additions bring the NRC to its full compliment of five commissioners for the first time since March 2003. The other members of the Commission include Edward McGaffigan, Jr., and Jeffrey Merrifield. Because both commissioners were appointed by the President during a congressional recess, their terms will expire at the end of the Senate's next session in late 2006.

Before joining the NRC, Jaczko served four years first as science policy advisor and then as appropriations director to Senator Harry Reid (D-NV). He has also been an adjunct professor teaching a science policy course at Georgetown University. He also worked as a congressional science fellow in the office of Representative Edward Markey (D-MA), and later advised members of the Senate Committee on Environment and Public Works on nuclear policy and other scientific issues. He has a bachelor's degree from Cornell University and a doctorate in particle physics from the University of Wisconsin.

Lyons brings to the NRC eight years of experience as science advisor to Senator Pete Domenici (R-NM) and to the Senate Energy and Natural Resources Committee. Lyons has also worked in various positions at the Los Alamos National Laboratory, during which time he spent over a decade supporting nuclear test diagnostics. He has published well over 100 technical papers, holds three patents related to fiber optics and plasma diagnostics, and served as Chair of the NATO Nuclear Effects Task Group for five

years. He received a doctorate in nuclear astrophysics from the California Institute of Technology in 1969 and earned a bachelor's degree in physics/math from the University of Arizona in 1964.

Biographies of Jaczko and Lyons can be found on the NRC's web site at http://www.nrc.gov/whowe-are/organization/commfuncdesc.html.

# ASLB Holds Hearing on Proposed NM Uranium Enrichment Plant

On February 7, the U.S. Nuclear Regulatory Commission's Atomic Safety and Licensing Board began evidentiary hearings in Hobbs, New Mexico on a proposed uranium enrichment plant to be built in Lea County. Thereafter, on February 12, the board heard brief statements from members of the public.

During the hearings, the ASLB heard evidence on four environmental contentions regarding the proposed National Enrichment Facility. These contentions concern impacts on ground and surface water, water supplies, waste storage and the need for the facility. While the hearings were open to the public, parts of certain sessions were closed because they involved information deemed sensitive.

Louisiana Energy Services (LES), a consortium of largely European backers, is proposing to build the \$1.2 billion facility—which would produce fuel for nuclear reactors—near Eunice, New Mexico. (See *LLW Notes*, November/December 2004, p. 22.)

# NRC Restores Documents on LES, USEC and New Reactors

The U.S. Nuclear Regulatory Commission has reestablished public availability of documents regarding the proposed LES and USEC uranium enrichment facilities and new reactors. (See related story, this issue.) Public access to the documents were suspended by NRC—along with major portions of the agency's web site, on October 25—while NRC conducted a security review and removed documents that could reasonably be expected to aid a potential terrorist. Public access to NRC's on-line document library, ADAMS, was also suspended. The agency has been restoring access to appropriate documents after reviewing them for security sensitivity.

LES and USEC documents deemed non-sensitive have been restored to ADAMS. Portions of other LES and USEC documents that were deemed to be sensitive have now been excised, or redacted, and the remaining portions of the documents restored to ADAMS. The new reactors category of restored documents relates to early site permits, standard design certifications and combined licenses for nuclear power plants.

# NRC Extension re Fire Protection Requests

The U.S. Nuclear Regulatory Commission has extended to December 31, 2005 the date for nuclear power plant operators to request use of a new, optional fire protection standard to resolve existing issues with a plant's fire protection plans. The new standard, which focuses resources on issues of the greatest risk significance, was announced in July 2004. (See *LLW Notes*, July/ August 2004, p. 22.) Nuclear power plant operators originally had until January 16 to request the new standard be applied to existing issues.

"The NRC concluded the extension protects public health and safety, since nuclear plant operators must have the means to compensate for any existing problems to be dealt with under the standard," said Sunil Weerakkody, Chief of the Fire Protection Engineering Section in the NRC's Office of Nuclear Reactor Regulation.

The Nuclear Energy Institute asked the NRC, in July 2004, to extend the deadline to allow for adequate planning and budgeting by plant operators. NRC staff considered possible safety implications, the need to start bringing the fire protection issues to closure, and other factors before agreeing to the extension.

The revised policy can be found on the NRC's web site at http://www.nrc.gov/what-we-do/regulatory/enforcement/enforc-pol.pdf.

# NRC Increases Security Requirements for Portable Gauges

The U.S. Nuclear Regulatory Commission is amending its regulations to require licensees for portable gauges containing radioactive material to use two independent physical controls to secure the gauges against theft when they are not under the control and constant surveillance of the licensee. The NRC believes that increasing physical controls will deter thieves by making it more difficult to steal portable gauges. "As a minimum, two controls would delay a thief and draw attention from bystanders that may prevent the theft."

Examples of two controls include storing the gauge in a locked facility within a separated secured area in a warehouse, or inside a locked van and secured to the vehicle with a steel cable. Examples of acceptable storage within a pickup truck would include placing the gauge inside a locked, non-removable box and further securing the box with a steel cable or chain; and keeping it inside the locked cab of the pickup, secured independently to the vehicle.

There are an estimated 22,000 to 25,000 portable gauges in use in the United States that are used to determine physical properties such as density and moisture content of soil, concrete and other materials. The gauges typically contain two encapsulated sources of radioactive material, which vary in the radioisotope used and its quantity.

Current NRC regulations require licensees to secure portable gauges in storage or maintain control and constant surveillance of the gauges when not in storage. Generally, the gauges are stored in a permanent location within a licensed facility. Sometimes, portable gauges are stored at a job site, a temporary storage location or on a vehicle. When being transported in a vehicle, a gauge is often placed in a transportation case and then secured in or onto the vehicle.

Despite such precautions, about 50 such gauges are reported stolen each year, with the recovery rate less than 50 percent. More than two-thirds of the stolen gauges were taken from vehicles parked in the open; most of these were stored in a portable transportation case and secured with a metal chain to the open bed of a pickup truck.

Due to the quantity and characteristics of the radioactive material used, the NRC does not believe portable gauges pose a substantial national security risk for malevolent use such as in a "dirty bomb." There is no discernible pattern to suggest that gauges are being stolen for terrorist purposes. However, loss of control of radioactive material still poses a potential health and safety risk to the public. The NRC is increasing this security requirement based on health and safety considerations rather than common defense and security concerns.

The final rule will become effective 180 days after publication in the *Federal Register*.

## U.S. Nuclear Regulatory Commission

# License Renewals Continue to Move Forward

On January 27, NRC held two public meetings in Southport, North Carolina on the environmental review of Progress Energy's application to renew the operating licenses for the two Brunswick Nuclear Plant reactors near Southport. The public was invited to attend and comment on environmental issues that NRC should consider in its review of the proposed license renewal. Just prior to the meetings, on January 25, NRC staff held public meetings in Athens, Alabama to receive comment on the agency's draft environmental impact statement relating to the renewal application of the operating licenses for the Browns Ferry Nuclear Power Plant. And, on January 11, NRC held a public meeting to receive comments on a draft report that assesses the environmental impact of extending the operating license for the Millstone Power Station, Units 2 and 3. in Waterford. Connecticut.

On December 16, NRC announced that it has completed its environmental assessment and plans to issue an exemption from its license renewal regulations for the Oyster Creek Nuclear Generating Station near Toms River, New Jersey. A few days earlier, on December 14, NRC staff met with Entergy Operations to discuss Arkansas Nuclear One license renewal.

Also in December, NRC renewed the license for the General Electric Company to continue to operate its Morris independent spent nuclear fuel storage installation located in Grundy County, Illinois for an additional 20 years and authorized the staff to issue a 40-year license renewal to Dominion General for its dry-cask independent spent fuel storage installation at the Surry nuclear power plant in Surry, Virginia after appropriate license conditions are developed. These represent the first spent fuel storage license renewals issued by NRC.

#### **Brunswick Nuclear Power Plant**

On October 25, NRC announced that an application for a 20-year renewal of the operating licenses for Units 1 and 2 of the Brunswick Steam Electric Plant is available for review. Subsequently, on December 1, the agency announced the opportunity to request a hearing on the application. The deadline for requesting a hearing was 60 days following publication of a notice in the *Federal Register*; which was done in early December. Pursuant to such requests, two public meetings were held on January 27. The meetings included an overview and NRC staff presentation on the environmental process related to license renewal, after which members of the public were invited to present their comments on what environmental issues NRC should consider during its review. At the conclusion of the information gathering process, NRC staff will prepare a summary of conclusions and significant issues and will send a copy to interested persons who participated in the scoping process. NRC staff will then prepare a draft environmental impact statement supplement for public comment and will hold a public meeting to solicit comments. After consideration of comments received on the draft, NRC will prepare a final EIS supplement.

The Brunswick Plant is located just north of Southport, N.C., and the current operating licenses for Units 1 and 2 expire on September 8, 2016 and December 27, 2014, respectively. The licensee, Carolina Power and Light Company (now doing business as Progress Energy Carolinas, Inc.) submitted the renewal application on October 20. A public meeting was held on November 4 in Southport, N.C. to discuss how the agency will review the application.

A copy of the Brunswick relicensing application is available on the NRC web site at http://www.nrc.gov/reactors/ operating/licensing/renewal/applications.html.

### **Browns Ferry Nuclear Power Plant**

NRC staff has reached the preliminary conclusion that there are no environmental impacts to preclude renewal of the operating licenses for the Browns Ferry Nuclear Power Plant located in Limestone County, Alabama. The information is contained in a draft environmental impact statement that is open for public comment until March 2, 2005 and was the subject of public meetings that were held on January 25.

The Browns Ferry Nuclear Power Plant is located near Decatur, Alabama. The current operating license for Units 1, 2 and 3 are set to expire on December 20, 2013, June 28, 2014, and July 2, 2016, respectively. The Tennessee Valley Authority submitted a license renewal application for the units on January 6, 2004. NRC staff then held two public meetings on April 1, 2004, in Athens, Alabama on the environmental review related to the license renewal application. (Unit 1 of the plant has been shut down for an extended period. NRC is currently reviewing TVA's extensive work on that unit to determine if it may be restarted.)

A copy of the Browns Ferry application can be found at http://www.nrc.gov/reactors/ operating/licensing/renewal/applications/ browns-ferry.html.

## **Millstone Station**

On January 11, the public was given an opportunity to comment on the draft report that assesses the environmental impact of extending the operating license for the Millstone Power Station, Units 2 and 3. The Millstone Station is located in Waterford, Connecticut. The current operating licenses for Units 2 and 3 expire on July 31, 2015 and November 25, 2015, respectively. Dominion Nuclear Connecticut, Inc. submitted a license renewal application on January 22, 2004. On March 12, NRC announced the opportunity to request a hearing on the application. The Connecticut Coalition Against Millstone submitted a request for a hearing and a petition to intervene in the hearing. In mid-May, NRC held two public meetings to obtain input on the environmental impact statement prepared for the license application.

On October 20, NRC staff met with Dominion Nuclear officials to discuss the results of the agency's inspections of the company's license renewal program for the plant. The meeting was open to observation by members of the public and an opportunity was provided to public observers to ask questions prior to adjournment of the meeting.

A "scoping and screening" inspection was conducted to verify that the company's license renewal program is implemented consistent with its application and pertinent regulations. A second inspection was conducted to verify that programs are or will be in place to manage the material conditions of the systems, structures and components.

A copy of the Millstone relicensing application can be found at http://www.nrc.gov/reactors/operating/licensing/ renewal/applications/millstone.html

## **Oyster Creek Nuclear Generating Station**

NRC plans to issue an exemption from its license renewal regulations for the Oyster Creek Nuclear Generating Station near Toms River, New Jersey. On August 10, Oyster Creek's operator, AmerGen, asked for an exemption from NRC's regulations regarding the federal government's "timely renewal" provision, which deals with the timing for submitting license renewal applications for nuclear power plants. The provision stipulates that if a nuclear power plant licensee applies for renewal at least five years before its current operating license expires, the existing license will not expire while the NRC decides whether to grant the requested renewal.

AmerGen did not file a renewal application for Oyster Creek by April 9, five years prior to its

license expiration, and has therefore requested the exemption to retain the "timely renewal" status. NRC reviewed the request based on existing law and the agency's regulations and determined that granting the proposed exemption will not have a significant impact on the environment.

The exemption requires AmerGen to submit a sufficient license renewal application by July 29, 2005, giving the NRC about 44 months to review the application. That period of time is longer than license renewal reviews have taken thus far. AmerGen also must provide required information to support completion of NRC's safety and environmental reviews.

#### Arkansas Nuclear One

NRC staff held a public meeting with officials from Entergy Operations management on December 14 to discuss the results of the agency's inspections of the Arkansas Nuclear One license renewal program. The Arkansas Nuclear One Plant is located near Russellville, Arkansas, The current operating license for Unit 2 at the plant, which is operated by Entergy Operations, is due to expire on July 17, 2018. The Commission unanimously approved a license extension for Unit 1 on June 20, 2001 following a review of staff recommendations. NRC staff held public meetings on February 3 in Russellville to gather comments on environmental issues the public believes NRC should consider in its review of the license application for Unit 2.

In October, NRC announced that it has reached the preliminary conclusion that there are no environmental impacts that would preclude the renewal of the operating license for Unit 2. The information is contained in a draft environmental impact statement that was open for public comment until November 24.

Copies of the Arkansas One renewal application are available on the NRC web page at http:// www.nrc.gov/reactors/operating/licensing/ renewal/applications/ano-2.html.

#### **Morris and Surry Spent Fuel Installations**

Morris Installation In late December, NRC renewed the license for the General Electric Company to continue to operate its Morris independent spent nuclear fuel storage installation located in Grundy County, Illinois for an additional 20 years. The renewal, which is the first time the NRC has renewed a license for an independent spent fuel storage installation, allows G.E. Morris to continue operating through May 2022. The facility's original 20-year license expired in May 2002; however, it was allowed to continue operating because G.E. had already filed its renewal request. The new license does not authorize the facility, which is the only "away from reactor" spent fuel pool licensed by NRC, to receive more fuel.

In a safety evaluation report and environmental analysis issued earlier in December, NRC concluded that the facility could continue safe operation without significant impacts on the environment. Not renewing the license would require the facility to be decommissioned and the fuel transferred to another facility to await eventual disposal in a federal repository.

**Surry Installation** In early December, NRC authorized its staff to issue a 40-year license renewal to Dominion General for its dry-cask independent spent fuel storage installation at the Surry nuclear power plant in Surry, Virginia after appropriate license conditions are developed. This will be the first license renewal granted to a dry-cask spent fuel storage installation. In approving the new license, the Commission approved granting Dominion an exemption from NRC regulations that specify a 20-year license term and directed staff to explore potential rulemaking to change the license duration in NRC regulations. The Commission also directed staff to approve the same exemption in its ongoing review of the license renewal application of Progress Energy for its dry-cask spent fuel storage installation at the H.B. Robinson nuclear plant in South Carolina. The new Surry license will be

issued once the agency and the licensee have finalized any needed maintenance and inspection requirements that will be included as conditions in the license.

Surry was the first commercial nuclear plant to be licensed by the NRC to operate an independent spent fuel storage installation. There are now 30 such installations in the United States. Surry's license is set to expire next year. The plant's spent fuel pools are at capacity, making continued use of dry-cask storage essential if the plant's two reactors are to continue to operate to the end of their current operating licenses in 2032 and 2033.

## NRC Regulations/Status of Renewals

Under NRC regulations, a nuclear power plant's original operating license may last up to 40 years. License renewal may then be granted for up to an additional 20 years, if NRC requirements are met. To date, NRC has approved license extension requests for 30 reactor units. In addition, NRC is currently processing license renewal requests for 16 other reactors.

For a complete listing of completed renewal applications and those currently under review, go to http:// www.nrc.gov/reactors/operating/licensing/renewal/ applications.html

# NRC Implements National Response Plan

On January 6, the Department of Homeland Security (DHS) officially unveiled, on behalf of the federal government, the new National Response Plan and its nuclear/radiological incident index. Shortly thereafter, the U.S. Nuclear Regulatory Commission—one of 32 signatories to the plan—began its implementation.

"The agency has required significant emergency response and security upgrades at facilities and now, with the implementation of the new plan, the NRC and the entire emergency management community are better prepared than ever to respond to both man-made and natural disasters," said Chair Nils Diaz.

The National Response Plan standardizes federal incident response but does not change the NRC's statutory authority and responsibility to nuclear facilities and the communities in which they are located. It also introduces new structures, such as the Interagency Modeling and Atmospheric Assessment Center, which provides one source for information related to predictions of the consequences of an airborne release of hazardous materials. In addition, the plan's nuclear/ radiological annex places greater emphasis on response to terrorist incidents involving radioactive material than the previous Federal Response Plan, and clarifies operational responsibilities and coordination functions.

Technical experts from within NRC participated in developing the National Response Plan and its nuclear/radiological incident annex, and Chair Diaz signed the plan on behalf of the commission on November 29, 2004. NRC's response to significant events under the plan will involve support to DHS, including the Homeland Security Operations Center and the Interagency Incident Management Group.

# NRC Holds Public Meeting on North Anna Early Site Permit

The U.S. Nuclear Regulatory Commission held a public meeting on February 17 in Mineral, Virginia to receive public comment on the draft environmental impact statement for a proposed Early Site Permit (ESP) at the North Anna site in Louisa County, approximately 40 miles northwest of Richmond. Prior to the meeting, NRC staff hosted an informal discussion during which time they answered questions and explained the ESP process. The ESP process allows an applicant to address site-related issues, such as environmental impacts, for possible future construction and operation of a nuclear power plant at the site. Dominion Nuclear North Anna, LLC filed an application for North Anna on September 25, 2003. (See *LLW Notes*, November/December 2003, pp. 21 - 22.) If approved, the permit would give Dominion up to 20 years to decide whether to build one or more nuclear plants on the site and to file an application with the NRC for approval to begin construction.

The NRC staff's preliminary recommendation is that a permit should be issued. The staff's conclusion is based on its independent review of a report submitted by Dominion, taking into account consultations with federal, state, tribal and local agencies and comments from the public. The staff's preliminary conclusions include a finding that there are no environmentally preferable or obviously superior sites, and that any adverse environmental impacts from possible site preparation and preliminary construction activities at North Anna could be redressed.

Written comments on the draft EIS will also be considered by NRC staff. Comments should be submitted either by mail (postmarked by March 1, 2005) to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T-6D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or by e-mail (sent no later than March 1, 2005) to NorthAnna\_ESP@nrc.gov.

At the conclusion of the public comment period on March 1, 2005, NRC staff will consider and address the comments provided, then issue a final EIS on the environmental acceptability of an ESP at North Anna later in 2005.

The draft EIS and related documents are available electronically at http://www.nrc.gov/reading-rm/doccollections/nuregs/docs4comment.html and http:// www.nrc.gov/reactors/new-licensing/esp/north-anna.html.

# NRC Withdraws Proposed Rule re SNF Dual-Purpose Casks

The U.S. Nuclear Regulatory Commission has withdrawn a proposed rule that would have allowed certificate holders for dual-purpose spent fuel casks to make certain non-safety related changes to the package design and procedures without prior NRC approval under certain conditions. (There is a similar authority in NRC regulations for non-safety related changes to storage casks.)

NRC withdrew the proposed rule after receiving several public comments in writing and in a public workshop—including comments from cask vendors and certificate holders that the proposal would impose significant regulatory costs and burdens. In withdrawing the proposed rule, NRC noted that some non-safety related changes to transport cask designs are already authorized under current NRC regulations.

Additional information about NRC's reasons for withdrawing the proposed rule can be found in a *Federal Register* notice published on January 4, 2005.

# NRC Seeks Comment re Environmental Review of Proposed Uranium Enrichment Facility

The U.S. Nuclear Regulatory Commission held a public meeting in Piketon, Ohio on January 18 to provide members of the public an opportunity to comment on the scope of the agency's environmental review for the U.S. Enrichment Corporation's (USEC) proposed gas centrifuge

uranium enrichment facility. USEC announced its intention to build a gas centrifuge uranium enrichment plant at the Portsmouth Gas Diffusion Plant site in Piketon in January 2004 and filed an application in August of the same year. The plant, which USEC intends to call the American Centrifuge Plant, will enrich uranium in the isotope U-235 for use in the production of fuel for nuclear power plants.

In October 2004, NRC issued an order establishing a 30-month time frame for completing its review and issuing a decision on the USEC application. The NRC's detailed reviews of the facility's safety, security and environmental issues will be detailed in two key documents: a Safety Evaluation Report and an Environmental Impact Statement. The Piketon meeting was used to get public input on what environmental issues should be included in the EIS. Those issues tentatively include land use, transportation, geology and soils, water resources, ecology, air quality, noise, historical and cultural resources, visual and scenic resources, socioeconomics, environmental justice, public and occupational health, and waste management. The final list, however, may differ based on public input.

For more information on uranium enrichment, see an NRC Fact sheet at <u>http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/enrichment.html</u>.

(Continued from page 16)

2. Allowing existing compacts with operating disposal facilities to continue to function within the framework established by the current LLRW Policy Act. That framework should continue to be available for compacts or states in the future.

3. Continued minimization of waste generation and assurance that LLRW is packaged, handled and temporarily stored in a safe manner.

(footnotes omitted)

The ANS was founded in 1954. It operates as a non-profit scientific and educational society of over 11,000 scientists, engineers, and educators from universities, government and private laboratories, and industry. ANS position statements "are the considered opinions and judgments of the Society in matters related to nuclear science and technology . . . They are intended to provide an objective basis for weighing the facts in reaching decisions on important national issues."

# *Health Physics Society/Organization of Agreement States*

## HPS and OAS Release Joint Position Statement and Draft Legislative Language re Regulation of Discrete Sources of Radioactive Materials

The Health Physics Society (HPS) and the Organization of Agreement States (OAS), which represent radiation safety professionals and regulatory agency stakeholders, have jointly developed a position statement calling for Congressional action to ensure uniform security and safety regulations for all discrete sources of radioactive material. In so doing, they have (1) identified fundamental principles that they feel future legislation should address in order to protect the public from such sources—including protection from malevolent uses of such sources by terrorists—and (2) drafted proposed legislative language that is consistent with said principles. Both the statement and draft legislative language attempt to address unintended adverse consequences posed by earlier legislation that was introduced, but not acted upon, in the 108<sup>th</sup> Congress with respect to (1) the uniformity of regulatory control for public health and safety purposes and (2) radioactive waste disposal.

The HPS and OAS Boards have approved release and distribution of the joint statement and proposed legislative language to appropriate Congressional staff members, NRC Commissioners and staff, and other interested federal agencies. Please note that the approval by the OAS Board is "Board approval" and does not reflect the opinions or views of any individual Agreement State program.

A brief history of the issue, as well as language from the position statement and draft legislation, are included below. Persons interested in additional information should contact HPS or OAS directly.

#### **Background Information**

In response to the events of September 11, 2001, legislation was introduced in the 108<sup>th</sup> Congress that attempted to create a unified system of regulatory control over all radioactive materials that could be used by terrorists in a radiological dispersal device (commonly known as a "dirty bomb). The draft bills, S.1043 and S.2763, contained provisions for placing control of radium-226, particle accelerator-produced materials, and other naturally occurring materials under the authority of the NRC. Although neither piece of legislation was acted upon, various organizations of professionals working in nuclear-related fields-including the Low-Level Waste Forum, Inc.—expressed concern about potential unintended adverse consequences of the draft bills. Indeed, at its September 2004 meeting in Buffalo, New York, the LLW Forum passed a resolution on the issue and distributed it to various affected parties. (See LLW Notes, September/October 2004, pp. 5, 16-17.) HPS, CRCPD, and OAS, on the other hand, formed a working group to study the issue and to develop the referenced position statement and draft legislative language. (See LLW Forum News Flash titled, "HPS, CRCPD, and OAS, Draft Joint Statement on Legislation to Treat Accelerator-Produced and Other Radioactive Material as Byproduct Material," January 9, 2005.) Although

CRCPD representatives participated in the working group that developed the draft documents, the CRCPD Board of Directors decided not to be a signatory to the approved documents in order to avoid any appearance of a conflict of interest with federal agencies that provide funding support to their organization.

# The Joint Position Statement/Draft Legislative Language

The joint position statement, which is entitled "Congressional Action is Needed to Ensure Uniform Safety and Security Regulations for Certain Radioactive Materials," points out that naturally occurring radioactive materials (NORM) and accelerator produced radioactive materials (NARM) are not defined in the Atomic Energy Act of 1954, as amended, and therefore are effectively excluded from regulation by the NRC—instead being regulated by various federal agencies and individual states. In this regard, the organizations state that they believe "this fragmented regulatory framework allows for inconsistent standards for the possession, use, and disposal of these sources, which can potentially have a negative impact on public health and safety and on national common defense and security." To rectify the issue, HPS and OAS recommend that Congress take action "to ensure not only the security of such sources, but also the uniformity of standards regarding their possession, use, and disposal." The enacting legislation, according to the joint statement, should follow these principles:

1. Discrete sources of technologically enhanced naturally occurring radioactive material (TENORM) and accelerator-produced radioactive material should be uniformly regulated throughout the United States. The most effective way to ensure uniformity in regulation is to include such sources in the definition of byproduct material in the AEA. (footnote omitted)

- 2. The NRC should be the sole agency authorized to promulgate federal regulations establishing requirements for controlling the acquisition, possession, transfer, use, and disposal of such sources to protect the public health and safety and the national security of the United States, except for those sources regulated by the United States Department of Energy.
- 3. The NRC shall, in consultation with the states and other stakeholders, develop a regulatory definition of the term "discrete," as applied to sources of TENORM and acceleratorproduced radioactive materials. This definition should include both an activity limit and a concentration limit on any such source, such that the radiological hazards are controlled in a manner consistent with other sources of radioactive material posing the same radiological hazard.
- 4. Disposal of such sources should be allowed at facilities licensed by the NRC, by states that have entered into agreements with the NRC pursuant to the AEA, or in facilities regulated pursuant to the Resource Conservation and Recovery Act (RCRA) when such disposal is appropriate and authorized by the regulatory agency (or agencies) having jurisdiction.
- 5. Placing such sources under the NRC's jurisdiction should be done in such a manner that (a) does not change the definition of low-level radioactive waste in the Low-Level Radioactive Waste Policy Amendments Act of 1985 and (b) does not adversely affect the implementation of congressionally approved Compacts pursuant to the Low-Level Radioactive Waste Policy Act of 1980 as amended, thus preventing such sources from becoming "orphaned" from disposal.

- 6. In fulfilling its new responsibilities, the NRC shall consult with state radiation control agencies that have established regulations for controlling the safe use, security, and disposal of these sources.
- 7. The NRC is encouraged to consult with other federal agencies as it develops regulations for controlling the safe use, security, and disposal of these sources.

The joint position statement is available on the HPS web site home page at http://hps.org/documents/ MaterialControl.pdf. The proposed legislative language and a sample of the forwarding letter are available to HPS members on the HPS web site in the "members only" area at http://hps.org/membersonly/newsandactivities/ whatsnew.html#466. Since the draft legislative language is not a "position of the Society" (but the approving committee agreed it was appropriate for implementing the position), it was not posted on the public area of the site.

# **To Obtain Federal Government Information**

## by telephone

DOE Public Affairs/Press Office	. (202)	586-5806
DOE Distribution Center	.(202)	586-9642
• DOE's National Low-Level Waste Management Program Document Center	. (208)	526-6927
EPA Information Resources Center	. (202)	260-5922
GAO Document Room	.(202)	512-6000
• Government Printing Office (to order entire Federal Register notices)	.(202)	512-1800
NRC Public Document Room	. (202)	634-3273
• Legislative Resource Center (to order U.S. House of Representatives documents)	.(202)	226-5200
U.S. Senate Document Room	. (202)	224-7860

## by internet

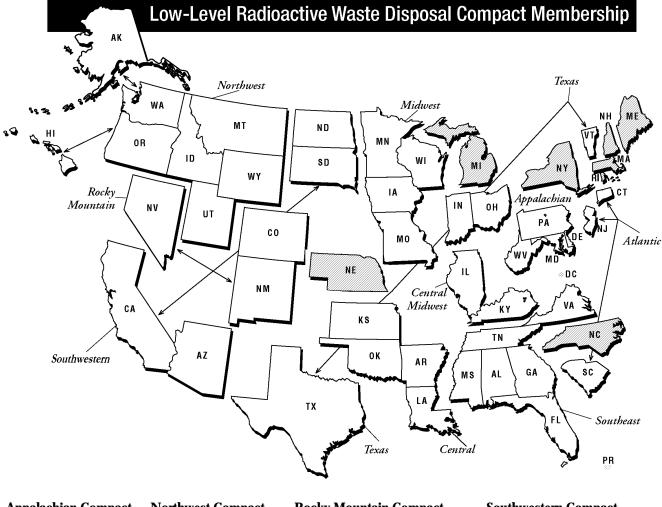
• NRC Reference Library (NRC regulations, technical report and regulatory guides).	
• EPA Listserve Network • Contact Lockheed Martin EPA at (800) 334-2405 or e-mail (leave subject blank and type of message).	help in body
• EPA • (for program information, publications, laws and r	egulations) <b>http://www.epa.gov/</b>
• U.S. Government Printing Office (GPO) (for the Congrecongressional bills and other documents, and access to m databases).	ore than 70 government
• GAO homepage (access to reports and testimony)	www.gao.gov

To access a variety of documents through numerous links, visit the web site for the LLW Forum, Inc. at <u>www.llwforum.org</u>

## Accessing LLW Forum, Inc. Documents on the Web

*LLW Notes,* LLW Forum Meeting Reports and the *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts* are distributed to the Board of Directors of the LLW Forum, Inc. As of March 1998, *LLW Notes* and LLW Forum Meeting Reports are also available on the LLW Forum web site at <u>www.llwforum.org</u>. The *Summary Report* and accompanying Development Chart, as well as LLW Forum News Flashes, have been available on the LLW Forum web site since January 1997.

As of March 1996, back issues of these publications are available from the National Technical Information Service at U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, or by calling (703) 605-6000.



#### Appalachian Compact Delaware Maryland Pennsylvania West Virginia

- **Atlantic Compact**
- Connecticut New Jersey South Carolina

#### **Central Compact**

Arkansas Kansas Louisiana Oklahoma

#### **Central Midwest Compact** Illinois Kentucky

#### **Northwest Compact** Alaska Hawaii Idaho

#### Montana Oregon Utah Washington Wyoming

Midwest Compact Indiana Iowa Minnesota Missouri Ohio Wisconsin

#### **Rocky Mountain Compact** Colorado Nevada New Mexico

Nothwest accepts Rocky Mountain waste as agreed between compacts

#### **Southeast Compact**

Alabama Florida Georgia Mississippi Tennessee Virginia

#### **Southwestern Compact** Arizona California North Dakota South Dakota

**Texas Compact** Texas Vermont

#### **Unaffiliated States**

District of Columbia Maine Massachusetts Michigan Nebraska New Hampshire New York North Carolina Puerto Rico Rhode Island