

LLW *notes*

Volume 23, Number 2 March/April 2008

Advisory Committee on Nuclear Waste & Materials/U.S. Nuclear Regulatory Commission

ACNW&M Comments on LLW Strategic Assessment

By letter dated March 25, 2008, Advisory Committee on Nuclear Waste & Materials (ACNW&M) Chairman Michael Ryan provided the committee's observations and recommendations with regard to the U.S. Nuclear Regulatory Commission staff's recently issued strategic assessment of the agency's low-level radioactive waste regulatory program.

Background

The strategic assessment, which the staff undertook in recognition of significant new and emerging LLW disposal issues and stakeholder concerns regarding the nation's management of commercial LLW, was delivered to the Commissioners on October 17, 2007. (See *LLW Notes*, November/December 2007, pp. 1, 20-23.)

The assessment resulted in a prioritized listing of ongoing and future staff actions and activities, along with associated schedules and resource estimates. As part of the assessment, staff evaluated and prioritized 20 potential activities that NRC could undertake to improve the LLW regulatory framework. In the end, seven of these were ranked as high priority and recommended for further action.

For additional information, please contact James Kennedy of NRC's Low-Level Waste Branch at 301-415-6668 or jek1@nrc.gov. A copy of the strategic assessment, and

supporting documentation, is available on NRC's web site at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2007> or by calling the NRC Office of Public Affairs at (301) 415-8200.

ACNW&M Observations and Recommendations

In its letter, ACNW&M offers the following four observations and recommendations (footnote omitted) for consideration by NRC Commissioners:

Observation: *The Committee notes that the assessment contains no detailed plans apart from those for the 2007-2008 work activities. If management practices for LLW were to change significantly during this period, it is not clear in the assessment how the staff would reprioritize its activities. Issues that*

(Continued on page 20)

In This Issue

Comment Period Extended re Italian Waste Import Proposal—page 7

TCEQ Responds to Comments re By-Product Disposal—page 12

Certiorari Granted re Colorado's Licensing Authority—page 18

NRC Issues FY2008-2013 Strategic Plan—page 28

COPYRIGHT POLICY

The Low-Level Radioactive Waste Forum, Inc. is dedicated to the goals of educating policy makers and the public about the management and disposal of low-level radioactive wastes, and fostering information sharing and the exchange of views between state and compact policy makers and other interested parties.

As part of that mission, the LLW Forum publishes a newsletter, news flashes, and other publications on topics of interest and pertinent developments and activities in the states and compacts, federal agencies, the courts and waste management companies. These publications are available to members and to those who pay a subscription fee.

Current members are allowed to distribute these written materials to a limited number of persons within their particular organization (e.g. compact commissioners, state employees, staff within a federal agency, employees in a commercial enterprise.) It has become clear, however, that there will be instances where members and subscribers wish to share LLW Forum materials with a broader audience of non-members.

This Copyright Policy is designed to provide a framework that balances the benefits of a broad sharing of information with the need to maintain control of published material.

1. LLW Forum, Inc., publications will include a statement that the material is copyrighted and may not be used without advance permission in writing from the LLW Forum.
2. When LLW Forum material is used with permission it must carry an attribution that says that the quoted material is from an LLW Forum publication referenced by name and date or issue number.
3. Persons may briefly summarize information reported in LLW Forum publications with general attribution (e.g., the LLW Forum reports that . . .) for distribution to other members of their organization or the public.
4. Persons may use brief quotations (e.g., 50 words or less) from LLW Forum publications with complete attribution (e.g., *LLW Forum Notes*, May/June 2002, p. 3) for distribution to other members of their organization or the public.
5. Members and subscribers may with written approval from the LLW Forum's officers reproduce LLW Forum materials one time per year with complete attribution without incurring a fee.
6. If persons wish to reproduce LLW Forum materials, a fee will be assessed commensurate with the volume of material being reproduced and the number of recipients. The fee will be negotiated between the LLW Forum's Executive Director and the member and approved by the LLW Forum's officers.

Low-Level Radioactive Waste Forum, Inc.

LLW Notes

Volume 23, Number 2 March/April 2008

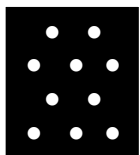
Editor and Writer: Todd D. Lovinger

Layout and Design: Rita Houskie, Central Interstate Low-Level Radioactive Waste Compact

LLW Notes is published several times a year and is distributed to the Board of Directors of the Low-Level Radioactive Waste Forum, Inc. - an independent, non-profit corporation. Anyone - including compacts, states, federal agencies, private associations, companies, and others - may support and participate in the LLW Forum, Inc. by purchasing memberships and/or by contributing grants or gifts. For information on becoming a member or supporter, please go to our web site at www.llwforum.org or contact Todd D. Lovinger - the LLW Forum, Inc.'s Executive Director - at (202) 265-7990.

The LLW Notes is owned by the LLW Forum, Inc. and therefore may not be distributed or reproduced without the express written approval of the organization's Board of Directors.

Directors that serve on the Board of the Low-Level Radioactive Waste Forum, Inc. are appointed by governors and compact commissions. The LLW Forum, Inc. was established to facilitate state and compact implementation of the Low-Level Radioactive Waste Policy Amendments Act of 1985 and to promote the objectives of low-level radioactive waste regional compacts. The LLW Forum, Inc. provides an opportunity for state and compact officials to share information with one another and to exchange views with officials of federal agencies and other interested parties.



LLW
FORUM, INC

Low-Level Radioactive Waste
Forum, Inc.
1619 12th Street N.W.
Washington, DC 20009
(202) 265-7990
FAX (202) 265-7995
E-MAIL llwforuminc@aol.com

Table of Contents

Federal Agencies and Committees (Cover Story)	1
ACNW&M Comments on LLW Strategic Assessment	1
Low-Level Radioactive Waste Forum, Inc.	4
Low-Level Radioactive Waste Forum Meetings—2008 and Beyond	4
September 2008 LLW Forum Meeting Registration Now Open	4
States and Compacts	5
Public Meeting Held re Calvert Cliffs COL Application	5
Pennsylvania Becomes 35th NRC Agreement State	5
COL Application for Lee Site Docketed	6
American Ecology Announces Director Nominees	6
Comment Period Extended re Italian Waste Import Proposal	7
Public Meeting Held re Bellefonte COL Application	8
Grand Gulf COL Application Available	9
Hearing Opportunity for North Anna COL Application	10
SW Compact Commission Selects New Executive Director	10
Houston Chronicle Article Alleges Problems with WCS Site	11
TCEQ Responds to Comments re By-Product Disposal Application	12
US Ecology Texas Issued Radioactive Material Field Services License	14
TCEQ Executive Director Resigns	15
WCS Announces Dornsife Promotion	15
Harris COL Application Available	16
Recommendations Issued on Radiation Source Replacement	16
Congress	17
Kristine Svinicki Confirmed as New NRC Commissioner	17
Courts	18
Certiorari Granted re Colorado's Licensing Authority	18
Federal Agencies and Committees (continued)	20
ACNW&M Holds March Meeting	20
ACRS Holds March Meeting	21
Transition Schedule for Advisory Committees Merger	21
Information Requested re Yucca Mountain Hearing	22
Feds Host Workshop re Extended Life of Power Plants	22
Chairman Klein Discusses Waste Challenges at WM'08	23
Commissioner Jaczko Addresses ACNW&M re LLW Disposal	24
NRC Establishes McGaffigan Award for Public Service	24
License Renewals Continue to Move Forward	25
Progress Continues re COL Application Reviews	26
Evolutionary Power Reactor Design to be Reviewed	27
US-APWR Design to be Reviewed	27
NRC Issues FY2008-2013 Strategic Plan	28
NRC's Regulatory Information Conference Held in March	29
Annual Plant Assessments Issued	29
Nuclear Education Grants Announced	30
Obtaining Publications	31

Key to Abbreviations

U.S. Department of Energy	DOE
U.S. Department of Transportation	DOT
U.S. Environmental Protection Agency	EPA
U.S. Government Accountability Office	GAO
U.S. Nuclear Regulatory Commission	NRC
Naturally-occurring and accelerator-produced radioactive material	NARM
Naturally-occurring radioactive material	NORM
Code of Federal Regulations	CFR

Low-Level Radioactive Waste Forum, Inc.

Low-Level Radioactive Waste Forum Meetings *2008 and Beyond*

The following information on future meetings of the Low-Level Radioactive Waste Forum is provided for planning purposes only. Please note that the information is subject to change.

For the most up-to-date information, please see the LLW Forum's web site at www.llwforum.org.

Spring 2008 Meeting

The next meeting of the LLW Forum will be held in Richland, Washington on April 28 – 30, 2008. It will be a one-day meeting, followed by a one-day optional site tour of the Hanford reservation. An optional site tour of the Perma-Fix Northwest facility is planned as well for the morning of April 30. Meeting bulletin and registration forms for the meeting—which is being sponsored by the Northwest Compact—are available on the LLW Forum's web site at www.llwforum.org. A copy of the draft agenda for the meeting has also been posted to the site at this time.

Fall 2008 Meeting

The Appalachian Compact will serve as host of the fall 2008 LLW Forum meeting. The meeting will be

held in Annapolis, Maryland on September 11 – 12 at the Westin Hotel. Meeting bulletin and registration forms will become available shortly. (See related story, below.)

2009 Meetings

The Atlantic Compact will serve as host of the spring 2009 LLW Forum meeting. The meeting will be held at the Hilton Hotel in Columbia, South Carolina on March 23-24, 2009. The State of Utah has agreed to host the fall 2009 LLW Forum meeting at a location to be determined in Salt Lake City, Utah.

Other Future Meetings

The State of New York has agreed to host the fall 2010 meeting at a location to be determined within the state. The LLW Forum is currently seeking a volunteer to host the spring 2010 meeting. Although it may seem far off, substantial lead-time is needed to locate appropriate facilities. Anyone interested in potentially hosting or sponsoring a meeting should contact one of the officers or Todd Lovinger, the organization's Executive Director, at (202) 265-7990.

September 2008 LLW Forum Meeting Registration Now Open

Registration for the spring meeting of the Low-Level Radioactive Waste Forum is now open. The one and one-half day meeting, which is being sponsored by the Appalachian States Low-Level Radioactive Waste Compact Commission, will be held at the Westin Hotel in Annapolis, Maryland on September 11-12, 2008. (The Executive Committee will meet on Thursday morning, September 11.)

Persons who plan to attend this meeting are strongly encouraged to register and make hotel reservations as soon as possible. Due to the proximity to Washington, D.C. and various federal and congressional offices, high attendance is anticipated for this meeting and space may be limited. And,

please note that the deadline for getting the discounted rate at the hotel is August 11, 2008.

Meeting bulletin and registration forms will be available shortly on the LLW Forum's web site at www.llwforum.org. Links to the documents will be located both in the first bold paragraph of the Home Page, as well as under "Meetings" on the About Page.

Persons wanting advance copies or who have trouble accessing the documents once they are posted to the site may request to have them e-mailed or faxed by calling the LLW Forum's office at 202/265-7990.

Appalachian Compact/State of Maryland

Public Meeting Held re Calvert Cliffs COL Application

On March 19, 2008, the U.S. Nuclear Regulatory Commission held public meetings in Solomons, Maryland to discuss the agency's review of a partial Combined License (COL) application, as well as environmental issues that should be considered during the review, for a new reactor at the Calvert Cliffs site near Lusby, Maryland. In addition, NRC staff was available during "open house" sessions on the same date, although no formal comments on the environmental review were accepted during that time.

The application's environmental portion and associated information were submitted by UniStar on July 13, 2007. The report—which also includes siting and administrative information required by NRC regulations—was supplemented on December 14, 2007. Under agency regulations, an applicant may submit one part of a COL application up to 18 months before submitting the remainder. NRC expects to receive a safety analysis, the second basic element of a COL, from UniStar in March.

The Calvert Cliffs site is located approximately 40 miles south of Annapolis, Maryland. UniStar is applying for a license to build and operate an Evolutionary Power Reactor (EPR) at the site. The EPR is a large, pressurized water reactor with a design output of approximately 1,600 megawatts. Areva, the designer of the EPR, filed an application for NRC certification of the design on December 11, 2007. (See related story, this issue.)

NRC plans to transcribe the March 19 meeting, including any follow-up answers that are provided by the staff, and post the transcript on the agency's web site at <http://www.nrc.gov/reactors/new-licensing/col/calvert-cliffs.html>.

NRC is currently reviewing COL applications for reactors at five sites, conducting acceptance checks on COL applications for two sites, and anticipates the submittal of several more COL applications during the course of the year. (See related stories, this issue.)

Appalachian Compact/Commonwealth of Pennsylvania

Pennsylvania Becomes 35th NRC Agreement State

The U.S. Nuclear Regulatory Commission has announced the completion of an agreement with the Commonwealth of Pennsylvania to assume part of the agency's regulatory authority over certain radioactive materials in the state. Pennsylvania is the 35th state to sign such an agreement with NRC. The agreement became effective on March 31, 2008.

Under the terms of the agreement, NRC will transfer to Pennsylvania responsibility for licensing, rulemaking, inspection and enforcement activities for:

1. radioactive materials produced as a result of processes related to the production or utilization of special nuclear material (SNM);
2. uranium and thorium source materials;
3. SNM in quantities not sufficient to form a critical mass; and,
4. accelerator-produced or other radioactive materials under NRC jurisdiction provided by the Energy Policy Act of 2005.

Approximately 650 licenses, most of which are for medical and industrial uses, will be transferred from NRC to Pennsylvania. NRC will retain jurisdiction over the regulation of commercial nuclear power plants and other facilities, as well as over federal agencies using certain nuclear material in the state. NRC will also retain authority for the review, evaluation and approval of sealed sources and devices containing certain nuclear materials manufactured in Pennsylvania and distributed throughout the country.

As part of the application process, NRC reviewed Pennsylvania's radiation control program to ensure that it is adequate to protect public health and safety and is compatible with the agency's program for regulating the radioactive materials covered in

States and Compacts *continued*

the agreement. NRC published an announcement about the proposed agreement four times in the *Federal Register* in June and July and invited public comments thereon. (See *LLW Notes*, July/August 2007, p. 5.) The agency received two comment letters, neither of which were deemed to contain new information that would change the staff's analysis of the state's radiation control program.

Other states that have previously signed such agreements with the NRC are: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington and Wisconsin.

Copies of the agreement, the Governor of Pennsylvania's request and supporting documents, and the NRC staff's assessment can be found on the NRC's ADAMS online document library at <http://www.nrc.gov>.

Duke seeks approval to build and operate two AP1000 reactors at the Lee site, which is located approximately 35 miles southwest of Charlotte, South Carolina. The AP1000 is an 1,100 megawatt electric pressurized-water reactor designed by Westinghouse that was certified by NRC in 2006. In January 2008, the agency accepted an application from Westinghouse to amend the AP1000 reactor. (See related story, this issue.)

NRC will publish in the near future an opportunity to intervene in the adjudicatory hearing required for the Lee application.

The Lee application, minus proprietary or security-related details, can be found on NRC's web site at <http://www.nrc.gov/reactors/new-licensing.html>.

NRC is currently reviewing COL applications for reactors at five sites, conducting acceptance checks on COL applications for two sites, and anticipates the submittal of several more COL applications during the course of the year. (See related stories, this issue.)

Atlantic Compact/South Carolina

COL Application for Lee Site Docketed

The U.S. Nuclear Regulatory Commission has docketed, or accepted for review, a Combined License (COL) application for two new reactors at the Lee site in Cherokee County, South Carolina. The Lee application, which was submitted by Duke Energy on December 13, 2007, is the fifth COL docketed by the agency. Docketing the application does not preclude additional requests for information as the review proceeds, nor does it indicate whether the Commission will issue the requested license. The docket number established for the Lee applications are 52-018 and 52-019.

Northwest Compact/State of Idaho

American Ecology Announces Director Nominees

On April 7, 2008, American Ecology Corporation announced the slate of Board of Director nominees that will stand for election at the company's 2008 annual meeting. Joining existing directors Roy Eliff, Edward Hall, Jeffrey Merrifield, John Poling, and Chairman and Chief Executive Officer Stephen Romano will be new nominees Victor Barnhart and Joe Colvin. The company's has scheduled its annual meeting to be held in Boise, Idaho on May 22, 2008.

"We are extremely pleased to attract nominees with the industry stature of Vic Barnhart and Joe Colvin," said Ed Heil, the board's Lead Director and Chairman of its Corporate Governance

States and Compacts *continued*

Committee. “Both have a broad nuclear industry background and knowledge of the radioactive and hazardous waste industries. They also bring a wealth of executive management and corporate board experience ...”

Barnhart serves as a consultant to nuclear service and chemical companies on operations, strategic planning and acquisitions. He has over 20 years of senior executive experience in nuclear fuel cycle facility operations, environmental remediation, hazardous and radioactive waste management and industrial and chemical plant services. He served as President and CEO of a number of Waste Management Inc. companies including NSC Corporation, Rust Remedial Services, Chem-Nuclear Systems and The Brand Companies. He has also previously held management positions with Westinghouse Electric and Nuclear Fuel Services—Getty Oil.

Colvin is a former senior executive with over 40 years of experience in the nuclear energy field. He serves on the Board of Directors of Cameco Corporation, the world’s largest uranium producer, and is a director for the American Nuclear Society. He is President Emeritus of the Nuclear Energy Institute (NEI), having previously served as NEI’s President and CEO, and Executive Vice President and COO before that. Colvin has also previously held senior management positions with the Nuclear Management and Resources Committee and the Institute for Nuclear Power Operations, as well as serving 20 years as a line officer with the U.S. Navy nuclear submarine program.

If elected, Barnhart and Colvin will replace Kenneth Leung and Richard Swope, neither of whom will be standing for reelection in May. The number of American Ecology directors is intended to remain at seven.

American Ecology Corporation, through its subsidiaries, provides radioactive, PCB, hazardous, and non-hazardous waste services to commercial and government customers throughout the United States including steel mills, medical and academic institutions, refineries, chemical manufacturing

facilities and the nuclear power industry. Headquartered in Boise, Idaho, it is the oldest radioactive and hazardous waste services company in the country.

Northwest Compact/State of Utah

Comment Period Extended re Italian Waste Import Proposal

In response to requests from interested stakeholders, the U.S. Nuclear Regulatory Commission has extended the public comment period on two applications from EnergySolutions to import up to 20,000 tons of potentially radioactively contaminated material from Italy to the company’s licensed disposal facility in Clive, Utah and to export for return to generators in Italy any of the imported waste that does not meet the waste acceptance criteria for the Clive facility. (See *LLW Notes*, November/December 2007, pp. 6-9.) The comment period, which was originally set to expire on March 12, has been extended to June 10.

The notice of receipt of the import application may be found at 73 *Federal Register* 7765 (February 11, 2008). The notice of receipt of the export application may be found at 73 *Federal Register* 7764 (February 11, 2008).

Opportunity to Request Hearing or Intervene or Submit Comments

NRC officials indicated that they have received “a number of requests for extension of the original comment period.” Among those requesting an extension was Healthy Environment Alliance of Utah (HEAL), a local environmental group that has challenged EnergySolutions on a number of issues.

In addition to providing an opportunity for comment on the proposal, NRC’s *Federal Register*

States and Compacts *continued*

notices allow interested parties to request a hearing or petition for leave to intervene.

Mark Walker, an EnergySolutions spokesman, was quoted in the local press as stating that the company has “no problem with NRC extending the comment period.”

Background

EnergySolutions’ License Applications On September 14, 2007, EnergySolutions filed an application with NRC for “a generic license to allow the importation of up to 20,000 tons of radioactively contaminated material including metals, graphite, dry activity material such as wood, paper, and plastic, ion exchange resins, and liquids such as aqueous and organic based fluids.” Most of the waste, according to company officials, would be recycled into metal with about 1,600 tons being disposed at the Clive site in Utah. EnergySolutions also filed the export license application to allow any waste that may not be disposed in Utah to be returned back to Italy.

A copy of EnergySolutions’ license applications may be found on the NRC’s Agencywide Documents Access and Management System (ADAMS) at www.nrc.gov.

Barton and Whitfield Correspondence On November 19, 2007, Representatives Joe Barton and Ed Whitfield sent a letter to NRC Chairman Dale Klein expressing concern about the proposal and requesting additional information regarding the agency’s “regulatory criteria and decision making process for import license applications for large volumes of radioactive wastes imported from foreign countries for disposal here in the United States.” Barton is the Ranking Member of the U.S. House of Representatives Committee on Energy and Commerce. Whitfield is the Ranking Member of the committee’s Subcommittee on Oversight and Investigations.

A complete copy of the letter from Representatives Barton and Whitfield to NRC Chairman Klein can be found at <http://republicans.energycommerce.house.gov/Media/File/News/11-19-07%20NRC.PDF>. The letters may also be

found on the NRC’s Agencywide Documents Access and Management System (ADAMS) at www.nrc.gov using accession numbers ML073330805 and ML073330814.

NRC’s Response On December 13, 2007, Chairman Klein responded to the inquiry from Barton and Whitfield. (See *LLW Notes*, January/February 2008, pp. 15-18.) In his letter, Klein notes that all import and export license applications that are submitted to the NRC are reviewed using criteria defined in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 110, “Export and Import of Nuclear Equipment and Material.” As part of the application review process, NRC staff consults with and/or solicits input from the U.S. Department of State, the U.S. Environmental Protection Agency (for applications that include mixed waste), affected states and compacts, and the general public.

A complete copy of Klein’s letter to Barton and Whitfield may be found at <http://www.nrc.gov/reading-rm/doc-collections/congress-docs/correspondence/2007/barton-12-13-2007.pdf>.

For additional information, please contact Tye Rogers of EnergySolutions at (801) 649-2000 or Dave McIntyre of the U. S. Nuclear Regulatory Commission at (301) 415-8200.

Southeast Compact/State of Alabama

Public Meeting Held re Bellefonte COL Application

On April 3, the U.S. Nuclear Regulatory Commission held public meetings in Scottsboro, Alabama to discuss the agency’s review of a Combined License (COL) application for two new reactors proposed for the Bellefonte site and the environmental issues that the agency should consider in reviewing the application. The agency plans to transcribe the meeting, including any follow-up answers that the staff provides after the

meeting, and post the information on the agency's web site at <http://www.nrc.gov/reactors/new-licensing/col/bellefonte.html>.

NRC staff will also consider written comments on the scoping process. Written comments should be submitted no later than April 25, either by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, via email at Bellefonte.COLEIS@nrc.gov, or hand-delivered to the NRC at 11545 Rockville Pike, Rockville, MD.

The Tennessee Valley Authority submitted the application on October 30, 2007. The application seeks to build and operate two AP1000 reactors at the Alabama site. TVA had received construction permits for two reactors at Bellefonte in the 1970s, but cancelled two partially constructed reactors in 2006.

The AP1000 is a Westinghouse-designed 1,100 Mwe pressurized water reactor that was certified by the NRC in 2006. Westinghouse submitted an application in May 2007 to amend the certified design in order to: 1) revise the reactor's steam generators, 2) resolve several issues that would otherwise be left to COL applicants, and 3) voluntarily address the NRC's proposed rule on aircraft impact assessments. The amended application, minus proprietary or security-related details, will be available on the NRC's web site at <http://www.nrc.gov/reactors/new-licensing/design-cert/amended-ap1000.html>. (See related story, this issue.)

NRC is currently reviewing COL applications for reactors at five sites, conducting acceptance checks on COL applications for two sites, and anticipates the submittal of several more COL applications during the course of the year. (See related stories, this issue.)

Southeast Compact/State of Mississippi

Grand Gulf COL Application Available

On March 7, 2008, the U.S. Nuclear Regulatory Commission made available the public version of a Combined License (COL) application for a new reactor at the Grand Gulf site near Port Gibson, Mississippi. The applicant, Entergy, submitted the application and associated information on February 27. The application, minus proprietary or security-related details, is available on the NRC's web site at <http://www.nrc.gov/reactors/new-licensing/col.html>.

Through its application, Entergy seeks approval to build and operate an Economic and Simplified Boiling Water Reactor (ESBWR) at the site, which is located approximately 25 miles southwest of Vicksburg. The ESBWR is a General Electric-designed, 1,500 Mwe natural circulation boiling water reactor that incorporates passive safety systems. The NRC is currently reviewing the design for possible certification. More information on this design is available on NRC's web site at <http://www.nrc.gov/reactors/new-licensing/design-cert/esbwr.html>.

NRC staff is currently conducting an initial check of the application to determine whether it contains sufficient information required for a formal review. If the application passes the initial check, the NRC will "docket" or accept it for review. NRC is expected to make this decision by early May. If the application is accepted for formal review, the NRC will then notice an opportunity for the public to participate in an adjudicatory hearing on the application.

NRC is currently reviewing COL applications for reactors at five sites, conducting acceptance checks on COL applications for two sites, and anticipates the submittal of several more COL applications during the course of the year. (See related stories, this issue.)

Southeast Compact/Commonwealth of Virginia

Hearing Opportunity for North Anna COL Application

On March 6, 2008, the U.S. Nuclear Regulatory Commission announced the opportunity to participate in a hearing on a Combined License (COL) application for a new reactor at the North Anna site in central Virginia. The applicant, Dominion Virginia Power, submitted the application and associated information on November 27, 2007. The application, minus proprietary or security-related details, is available on the NRC's web site at <http://www.nrc.gov/reactors/new-licensing/col/north-anna.html>.

Through its application, Entergy seeks approval to build and operate an Economic and Simplified Boiling Water Reactor (ESBWR) at the site, which is located approximately 40 miles northwest of Richmond. The ESBWR is a General Electric-designed, 1,500 Mwe natural circulation boiling water reactor that incorporates passive safety systems. The NRC is currently reviewing the design for possible certification. More information on this design is available on NRC's web site at <http://www.nrc.gov/reactors/new-licensing/design-cert/esbwr.html>.

On January 28, NRC staff determined that the application contains sufficient information required for a formal review. The docket number assigned to this application is 52-017. Docketing the application does not preclude additional requests for information as the review proceeds, nor does it indicate whether the Commission will issue a license.

NRC will shortly issue in the *Federal Register* a notice of opportunity to intervene in the proceeding on the application. The deadline for petitioning to intervene is 60 days after publication of the notice. Petitions may be filed by anyone whose interest may be affected by the proposed license, who

wishes to participate as a party in the proceeding, and who meets the criteria set out in the NRC's regulations (10 CFR Part 2). NRC staff provided background information regarding the hearing process during an October 2007 public meeting held in Mineral, Virginia.

A petition to intervene must be electronically submitted in a timely manner to the NRC's Electronic Information Exchange (EIE) system. The petition to intervene must be filed in accordance with the NRC's E-Filing Rule that appeared in the *Federal Register* on August 28, 2007. Additional guidance and instructions regarding electronic submissions to the NRC EIE system is available on the NRC web site at <http://www.nrc.gov/site-help/e-submittals.html>.

NRC is currently reviewing COL applications for reactors at five sites, conducting acceptance checks on COL applications for two sites, and anticipates the submittal of several more COL applications during the course of the year. (See related stories, this issue.)

Southwestern Compact

SW Compact Commission Selects New Executive Director

At a meeting in Sacramento, California on March 20, 2008, the Southwestern Low-Level Radioactive Waste Commission interviewed candidates for the position of Executive Director. The Commission's current Executive Director, Don Womeldorf, will retire effective December 31, 2008. Womeldorf has served as Executive Director of the Southwestern Compact since 1991.

After careful consideration and discussion during a closed session, the Commission selected Kathy Davis to replace Womeldorf. Her term will begin on July 1, 2008, providing a 6-month overlap with

Womeldorf's tenure. Davis had served as Chair of the Southwestern Compact from 2003 to 2007. She resigned from the Commission in 2007 in order to apply for the Executive Director post.

The next meeting of the Southwestern Compact Commission will be held in Salt Lake City, Utah on April 15, 2008.

For additional information, please contact Don Womeldorf of the Southwestern Compact at (916) 448-2390 or via e-mail transmission at swllrwcc@swllrwcc.org.

Texas Compact/State of Texas

Houston Chronicle Article Alleges Problems with WCS Site

WCS Challenges Accuracy and Issues Clarification

On March 2, 2008, the *Houston Chronicle* ran a story alleging that two geologists and two engineers who were part of a Texas Commission on Environmental Quality (TCEQ) team that is reviewing an application by Waste Control Specialists LLC (WCS) to build and operate a low-level radioactive waste disposal facility at the company's site in Andrews County, Texas concluded in August 2007 that the license application should be denied. According to the article, these individuals concluded that one water table may be closer than 14 feet and that it is therefore "highly likely" that water could permeate the facility due to increases in annual rainfall caused by climate change.

On the same day, WCS President Rod Baltzer issued a press release challenging the accuracy of some of the statements in the article and arguing

that the WCS site "is one of the safest places for waste disposal operations because it is in an arid area of far West Texas that is situated above a stable geologic formation of almost impermeable red bed clay." In the press release, Baltzer clarifies that "Moisture occurs in unusable quantities in very old geologic formations sandwiched between the red bed clays at least 35 feet below the proposed units—not 14." Baltzer goes on to argue that the red bed clays "prohibit the upward or downward migration of the moisture."

The Houston Chronicle Article

The *Houston Chronicle* article describes WCS as a "politically connected Dallas firm" that is owned by "a top donor to Gov. Rick Perry and other state politicians." It quotes an interoffice memo obtained through a public information request as stating as follows: "Analysis of available data shows that groundwater in the natural system already is unacceptably at or near the boundaries of the proposed disposal units. Predicted increases in rainfall are expected to drive the water tables into the proposed units." Based on such data, the individuals on the team allege that WCS has failed to demonstrate that the proposed site complies with a state law requirement that water "shall not intrude into the waste."

Nonetheless, the article does acknowledge WCS' claims that the company has done extensive soil sampling and well drilling which demonstrate that the site is safe. After learning of the staff's concerns, WCS prepared an extensive presentation on the issues. The article notes that the TCEQ, which is reviewing the license application, also responded to the team's concerns by requiring in a proposed draft license that, prior to the commencement of construction, additional soil sampling and computer modeling must be conducted to show that the waste material would remain unsaturated at all times.

Indeed, in an e-mailed statement to the *Houston Chronicle*, a TCEQ official stated as follows: "The initial conclusions in the August 14, 2007, memorandum did not take into account draft

States and Compacts *continued*

license provisions that were subsequently developed by the technical review team ... The executive director supports the team's ongoing review to ensure the protection of human health and the environment, as the agency proceeds with finalization of the draft license."

The article states, however, that Glenn Lewis—a technical writer who worked with the TCEQ review team until his resignation last December—argues that additional site monitoring will not address fundamental problems with the site's geology. "These facilities are supposed to contain the radioactive waste safely for tens of thousands of years," states Lewis. "Fourteen feet is not much of an insurance policy for tens of thousands of years."

The WCS Press Release

In his March 3 press release, Baltzer emphasizes that the WCS site is in an area that "historically averages 16 inches of annual rainfall and has an evaporation rate of more than 60 inches per year." Moreover, the bottom of the proposed disposal units is separated by more than 500 feet from the closest aquifer by a relatively impermeable barrier of red clay. According to Baltzer, "Scientific evaluation has conclusively shown that it would take hundreds of thousands of years, if ever, for any material from the landfill to travel to this aquifer." Baltzer goes on to note that the license application includes modeling which the company claims proves that water will not enter the disposal units, even if the annual rainfall in Andrews County forever increased by 275 percent to 60 inches per year.

Balter's press release concludes with the following statement:

"The WCS site is one of the—if not the—most characterized, analyzed, modeled and monitored sites in this country. As part of its analysis, WCS has done more than 375 borings and has installed more than 285 monitoring wells in the immediate vicinity of the proposed disposal units. WCS has half a dozen consultants analyzing and monitoring the groundwater results from the site, including pre-

eminent experts. All of these experts disagree with the comments made by Mr. Lewis, who is not a geologist. Mr. Lewis' comments are not based on the facts or the science. WCS' license application demonstrates that the site will protect human health and the environment and that water will not intrude into the proposed disposal units under any credible scenario."

TCEQ Responds to Comments re By-Product Disposal Application

Final Draft License Prepared

On March 14, 2008, the Executive Director of the Texas Commission on Environmental Quality (TCEQ) filed a Response to Comments on a license application filed by Waste Control Specialists LLC (WCS) for a radioactive material license for the commercial disposal of by-product material at the company's site in Andrews County, Texas. In addition, TCEQ published an Erratum that lists changes that were made to the Environmental Analysis (EA) as a result of the public comments.

Background

By-product material is defined as the tailings or wastes produced by or resulting from the extraction or concentration of uranium or thorium from ore processed primarily for its source material content. WCS' application proposes to locate a by-product disposal facility approximately 31 miles west of the city of Andrews in Andrews County, Texas, and six miles east of the City of Eunice, New Mexico. The proposed facility is located just east of the Texas—New Mexico boundary and one mile north of Texas State Highway 176.

Review of the WCS application was initiated by the Texas Department of Health in June 2004 pursuant to Title 25 of the Texas Administrative Code (TAC), Section 289.260. On September 1, 2004,

States and Compacts *continued*

the Department was reorganized into the Texas Department of State Health Services (DSHS). In the newly formed DSHS, the Technical Assessments Group continued with the review until the 80th Texas Legislature passed, and the Governor signed, Senate Bill 1604. Among other things, that legislation transferred regulatory authority for uranium/by-product waste disposal to the TCEQ. (See *LLW Notes*, May/June 2007, pp. 9-10.) Technical review staff officially transferred to the TCEQ on July 1, 2007 and the new Uranium Technical Assessments Section of TCEQ continued the WCS application review until October 1, 2007. The by-product material regulations of 25 TAC 289.260 were in effect during the review of the application.

TCEQ completed its technical review of WCS' application and prepared supporting documentation—including a draft Environmental Analysis (EA) and a draft license—on October 22, 2007. (See *LLW Notes*, September/October 2007, pp. 1, 11-12.) The draft EA is a technical assessment of the Executive Director's staff review of the license application. It documents the review performed through the technical review period and discusses the review and analysis of technical issues in several critical areas that were subsequently addressed in draft license conditions. The draft license, if approved, would establish the conditions under which the facility must operate. The Executive Director has made a preliminary decision that the license, if issued, meets all statutory and regulatory requirements.

Response to Comments

The comment period on the draft EA and the draft license issued by TCEQ ended on November 27, 2007. In addition to various individuals, TCEQ received comments from representatives of the following: WCS; the City of Eunice; the City of Andrews; the Andrews Economic Development Corporation; the Andrews County Chamber of Commerce; the Andrews Independent School District; Advocates for Responsible Disposal in Texas (ARDT); the Sierra Club; the Nuclear Information and Resource Service (NIRS); URI,

Inc.; the Texas Mining and Reclamation Association (TMRA); and, the Andrews Industrial Foundation. All of the comments, and TCEQ's response to each, are summarized in the Response to Comments document that was issued on March 14.

In addition to comments, TCEQ received approximately twelve requests for a public meeting. Individuals residing in or around Eunice submitted eleven of the requests using an identical form letter and the Sierra Club submitted one additional request that named two members residing in and around Eunice. No requests were submitted from individuals residing in Andrews County, nor were any requests received from groups on behalf of members that reside in Andrews County. Accordingly, TCEQ's Executive Director "determined that there was not a significant degree of public interest in the application and decided against conducting a public meeting on the WCS application for a license authorizing by-product material disposal."

WCS Press Release

In a press release issued on March 17, WCS officials applauded the actions taken by TCEQ and expressed optimism for a favorable outcome on the company's pending license applications.

"This is a great accomplishment for our company and we are pleased that the Executive Director and his staff have recommended the issuance of the license to the TCEQ Commissioners after an exhaustive and thorough review of our application and our site," commented WCS President Rodney Baltzer. "This license will allow us to safely dispose of the 3,776 canisters of by-product material received from the Fernald, Ohio site remediation currently in storage at our site as well as provide a more economical disposal facility for uranium miners in Texas and New Mexico."

William Lindquist, Chief Executive Officer of WCS, added, "We have great support from the Andrews County community, a tremendous site that is perfectly suited to dispose of this waste and a

talented and dedicated group of employees who make our success a reality.”

The press release notes that, in addition to the draft license for by-product disposal, WCS is also awaiting a draft license from TCEQ for the disposal of low-level radioactive waste at the Andrews County facility. No recommendation has been made on the license application for low-level radioactive waste disposal. On December 10, 2007, TCEQ provided for WCS review and comment an initial draft license and draft licensing Order including pre-construction, construction, operational, and maintenance requirements that may differ or expand upon information provided in the application. (See *LLW Notes*, January/February 2008, pp. 1, 9-11.) WCS has submitted comments thereon, which TCEQ is currently reviewing.

WCS’ release states that the company plans to “engage in a proactive dialogue with the citizens of West Texas to ensure they are fully aware of all aspects of both licenses.”

A link to the WCS web site for the license application, the TCEQ Executive Director’s technical summary, the draft license, the draft EA, and the Response to Comments, are available for viewing on the TCEQ’s web site at www.tceq.state.tx.us/goto/wcsbyproductapp/.

customers by the company, which has been providing on-site radioactive materials removal and packaging services for almost two decades. “This license enhances our ability to offer turnkey solutions to our customers,” said American Ecology President and Chief Executive Officer Stephen Romano. “While field services are expected to remain a niche business primarily utilizing internal resources, our expanded authority to perform work at customer sites complements our well-established rail transportation capabilities and other strategies to direct additional radioactive material to our disposal sites.”

The new license expires on March 31, 2018. It allows US Ecology Texas decontamination of pipe, land, buildings, equipment and materials contaminated with radioactive materials, as well as recovery of sealed sources, within specified limits. According to a press release issued by American Ecology, the license may be used throughout the United States under reciprocity agreements between Texas, other state agencies, and the federal government.

American Ecology Corporation trades on the NASDAQ under the ticker symbol ECOL. The company is headquartered in Boise, Idaho and is the oldest radioactive and hazardous waste services company in the country. Through its subsidiaries, American Ecology provides radioactive, PCB, hazardous and non-hazardous waste services to commercial and government customers throughout the United States including steel mills, medical and academic institutions, refineries, chemical manufacturing facilities and the nuclear power industry.

US Ecology Texas Issued Radioactive Material Field Services License

On March 19, 2008, American Ecology Corporation announced that its subsidiary, US Ecology Texas, has received a license from the Texas Department of State Health Services that allows the company to perform radioactive materials remediation and decontamination services at customer locations. The new license expands the value added services that can be offered to

TCEQ Executive Director Resigns

On April 2, 2008, Texas Commission on Environmental Quality (TCEQ) Executive Director Glenn Shankle announced his resignation. Among other activities, TCEQ is currently reviewing two separate applications from Waste Control Specialists LLC (WCS) for a radioactive material license for the commercial disposal of by-product material and a license for the disposal of both commercial and federal low-level radioactive waste at the company's site in Andrews County, Texas. (See *LLW Notes*, January/February 2008, pp. 1, 9-11.)

"The shoes Mr. Shankle leaves behind will be tough to fill," said TCEQ Chairman H.S. Buddy Garcia. "I can't articulate how much I appreciate his mentorship to me. He was leading this agency in a very difficult position, balancing the needs and wants of different commissions and staff. You have done all this while protecting the environment and the health of people throughout the state."

Shankle took classes at St. Edward's University before starting his career in the mid-1970s as the Comptroller of Public Accounts, where he rose through the management ranks to Deputy Controller. He then worked for four years at the state Senate, after which he joined TCEQ in 1995.

Although Shankle's resignation has been announced, a decision has not been made as to his specific date of departure from the agency.

WCS Announces Dornsife Promotion

On March 31, 2008, Waste Control Specialists LLC (WCS) announced the promotion of William Dornsife to the newly created position of Executive Vice President of Licensing and Regulatory Affairs. Dornsife, who previously served as the Commonwealth of Pennsylvania's representative on the Low-Level Radioactive Waste Forum, retired from government service in 1997 to join WCS. Jeffrey Skov, WCS' Vice President of Licensing and Regulatory Affairs, will report to Dornsife.

Dornsife graduated from the U.S. Naval Academy in 1966, after which he served on a nuclear submarine after completing nuclear power school and prototype. Following his naval service, he received an M.S. degree in Nuclear Engineering from Ohio State and worked for three years for a major engineering company designing nuclear power plants and performing licensing functions. He joined the Pennsylvania Bureau of Radiation Protection in 1976 as a Nuclear Engineer and was later promoted to Chief of the Nuclear Safety Division. In 1992, he was appointed Director of the Bureau of Radiation Protection. While working for the state agency, Dornsife was responsible for the implementation and regulation of the host state responsibilities for the Appalachian Compact.

Dornsife is a registered professional engineer in the Commonwealth of Pennsylvania and an honorary member of the National Council on Radiation Protection and Measurements (NCRP). He is a past Chairman of the NCRP Committee on Waste Avoidance and Volume Reduction, as well as a past Chairman of the Conference of Radiation Control Program Directors (CRCPD).

State of North Carolina

Harris COL Application Available

On March 10, 2008, the U.S. Nuclear Regulatory Commission announced the availability of the public version of a Combined License (COL) application for two new reactors at the Harris site near Apex, North Carolina. Progress Energy submitted the application and associated information on February 19, 2008. It seeks approval to build and operate two AP1000 reactors at the Harris site, which is located approximately 20 miles southwest of Raleigh, North Carolina. The AP1000 is an 1,100 megawatt electric pressurized-water reactor designed by Westinghouse that was certified by NRC in 2006. In January 2008, the agency accepted an application from Westinghouse to amend the AP1000 reactor. (See related story, this issue.)

NRC staff is currently conducting an initial check of the application to determine whether it contains sufficient information required for a formal review. If the application passes the initial check, the agency will “docket” it for review. NRC expects to make such a decision in April 2008. If the application is docketed, NRC will then notice an opportunity for the public to participate in an adjudicatory hearing on the application.

The Harris application, minus proprietary or security-related details, can be found on NRC’s web site at <http://www.nrc.gov/reactors/new-licensing.html>.

NRC is currently reviewing COL applications for reactors at five sites, conducting acceptance checks on COL applications for two sites, and anticipates the submittal of several more COL applications during the course of the year. (See related stories, this issue.)

National Academies

Recommendations Issued on Radiation Source Replacement

In a recent report titled “Radiation Source Use and Replacement,” the National Academies recommends that any effort to replace radiation sources with alternative technologies should proceed with caution in order to minimize disruption in vital areas of industry, medicine and research. The report is the work of the Radiation Source Protection and Security Task Force which, as mandated by Congress in the Energy Policy Act of 2005, is analyzing potential impacts of so-called “dirty bombs” and radiation exposure devices, the potential for replacing cesium chloride sources, and alternative technologies for radioactive sources. The task force is comprised of state regulators and 14 federal agencies, including the NRC.

“We applaud the National Academies for urging caution in any effort to replace radioactive materials with alternative technologies,” said U.S. Nuclear Regulatory Commission Chairman Dale Klein. “Safely used and secured, these materials provide important benefits to our nation’s health, safety and economic strength.”

The National Academies report was one of three studies of alternatives to radioactive materials that were mandated by the Energy Policy Act of 2005. That law also created the Radiation Source Protection and Security Task Force and directed a separate report by the U.S. Department of Energy which was submitted to Congress in 2006.

The radioactive sources in question are used to treat millions of patients each year in diagnostic and therapeutic medical procedures. They provide critical capabilities in the oil and gas, electrical power, construction and food industries, as well as being used in technology research and development.

U.S. Congress/ U.S. Senate

Kristine Svinicki Confirmed as New NRC Commissioner

Gregory Jaczko Confirmed for a Second Term

On March 14, 2008, the U.S. Senate confirmed Kristine Svinicki to a term as a new Commissioner on the U.S. Nuclear Regulatory Commission and confirmed current Commissioner Gregory Jaczko to a second term. NRC Chairman Dale Klein issued statements congratulating both and commending the confirmation of a fourth Commissioner. "Having a fourth Commissioner on board will enable the NRC to better accomplish its mandate of protecting people and the environment," said Klein.

New Commissioner Kristine Svinicki

Kristine Svinicki has had a distinguished career as a nuclear engineer and in the policy arena, having worked as a professional staff member on the Senate Armed Services Committee since 2005 for the Committee's former Chairman, Senator John Warner (R-VA), and its current ranking Republican, Senator John McCain (R-AZ). Prior to joining the Senator's staff, Svinicki worked as a nuclear engineer in the U.S. Department of Energy's Office of Nuclear Energy, Science and Technology, as well as serving in other capacities at DOE. Before that, she was an engineer for the Wisconsin Public Service Commission.

Through her work, Svinicki has experience on defense science and technology programs, as well as DOE's atomic energy defense activities including nuclear weapons and environmental management programs with a collective budget of \$25 billion. She was also involved in the development of legislation and legislative strategies on energy, environmental and technology issues in the areas of telecommunications, energy research and development and nuclear waste management.

Svinicki, whose term will run through June 30, 2012, stated that she is "grateful for the confidence the President and the Senate have shown in me" and that she is "looking forward to the challenges I will face at the NRC, which has important issues before it in the coming years."

Current Commissioner Gregory Jaczko

Gregory Jaczko was first appointed as an NRC Commissioner in 2005 and is now the agency's senior member. Prior to his appointment, Jaczko served as appropriations director for Senator Harry Reid (D-NV) and also served as the Senator's science and policy advisor. He had previously advised members of the Senate Committee on Environment and Public Works on nuclear policy and other scientific matters, and worked as a congressional science fellow in the office of Representative Edward Markey (D-MA). In addition, he has been an adjunct professor at Georgetown University, teaching science and policy.

In regard to Jaczko's confirmation, Chairman Klein said that the trend in recent years toward two-term Commissioners "has contributed great stability on the Commission and a consistency in the development of sound policy." Klein continued that he is looking forward "to working with Commissioner Jaczko in his second term on the issues facing the NRC, which are of great importance in carrying out our mission of protecting people and the environment."

Jaczko, whose first term expires on June 30 and whose second term runs through June 30, 2013, stated as follows: "I am honored that the Senate has chosen for a second time to confirm me to a seat on the Commission. I have worked to ensure that the NRC is as open and transparent as possible and to ensure that all stakeholders have an opportunity to participate in NRC policy-making efforts. I also intend to continue my efforts to focus on issues such as the security of nuclear power plants, emergency preparedness, and the safe use of radioactive sources."

***Board of County Commissioners of the
County of Adams v. Colorado
Department of Public Health and
Environment and Clean Harbors Deer
Trail, LLC***

Certiorari Granted re Colorado's Licensing Authority

On March 17, 2008, the Supreme Court of the State of Colorado granted Petitions for Certiorari with regard to limited issues in two lawsuits brought by the Adams County Board of Commissioners (Adams County) against the Colorado Department of Public Health and Environment (CDPHE) and against intervenor Clean Harbors Deer Trail facility (CHDTF).

The rulings, which were issued by the court en banc, denied the petitions with regard to all other issues.

Background

CHDTF operates a hazardous waste disposal facility in Adams County, Colorado.

Under state statute, when an entity seeks to operate a hazardous waste disposal facility, it must first apply to the local board of county commissioners for a certificate of designation (CD). The county then forwards the application to the CDPHE, which is required to make various findings of fact on site approval, after which the county may hold public hearings before a decision is issued on the CD.

State law provides that CDPHE is the radiation control agency of the state and gives it authority to issue licenses pertaining to radioactive materials, including licenses for the disposal of low-level radioactive waste.

In 2005, in response to requests by CHDTF, the CDPHE renewed the facility's hazardous waste

permit pursuant to the federal Resource Conservation and Recovery Act (RCRA) and issued to the facility a radioactive materials license allowing the acceptance and disposal of certain low-level radioactive materials.

Legal History

In February 2006, Adams County filed a complaint seeking judicial review of the permit on the grounds that it was issued without a valid CD and that it improperly resulted in a substantial change in the design and operation of the facility. In a separate action, Adams County also sought judicial review of the grant of the radioactive materials license. (See *LLW Notes*, January/February 2006, pp. 19-20, 29.)

In both cases, CDPHE responded with motions to dismiss, arguing that Adams County lacks judicial standing as a subordinate state agency. CHDTF then moved to intervene, joined the CDPHE's motion, and filed its own motions to dismiss.

The trial court granted the motions and dismissed the claims, concluding that Adams County lacked judicial standing to seek judicial review of the hazardous waste disposal permit and the radioactive materials license. Adams County then filed an appeal of the court's decisions.

On October 4, 2007, a three-judge panel of the Colorado Court of Appeals issued two orders affirming the lower court decisions in favor of the defendants. (See *LLW Notes*, November/December 2007, pp. 12-14.)

Certiorari Orders

The Supreme Court of the State of Colorado granted the Petitions for Certiorari with regard to the following issues:

Whether Adams County has standing to challenge the Colorado Department of Public Health and Environment's decision to issue a radioactive materials license, which authorized the disposal of certain types of radioactive waste, to a waste disposal facility located in the County on the ground that the facility failed to first obtain a certificate of

Courts *continued*

designation from the County specifically authorizing the disposal of such waste.

Whether Adams County has standing to challenge the Colorado Department of Public Health and Environment's decision to modify a hazardous waste disposal permit issued to the same waste disposal facility on the ground that the modified permit incorporated the terms of the radioactive materials license without first obtaining a modified hazardous waste certificate of designation from the County, or otherwise obtaining the County's approval.

The court denied the petitions with regard to all other issues not specified above.

Briefing Schedule

Under the terms of the court's orders, which were issued on March 17, 2008, the briefing schedules are as follows:

- ◆ Petitioner's Opening Briefs shall be filed within forty days of the issuance of the court's orders;
- ◆ Respondent's Answer Briefs shall be filed within thirty days from receipt of the Opening Briefs; and,
- ◆ Petitioner's Reply Briefs may be filed within fourteen days from receipt of the Answer Briefs.

Other Pending Litigation

A trial date has been set for a separate, but related, lawsuit filed by Adams County directly against CHDTF in the District Court of Adams County. In that case, the county asserts, among other things, that the company has violated applicable laws by operating a regional low-level radioactive waste disposal facility without applying for and obtaining the necessary CD. The case is set to go to trial on July 21, 2008.

In October 2007, the district court rejected two counterclaims filed by CHDTF that sought to dismiss the action because the court found that it lacks jurisdiction due to Clean Harbors' failure to

timely exercise its right of judicial review pursuant to Colorado statute. Shortly thereafter, on November 15, 2007, the CDPHE announced that the Colorado Attorney General's Office filed a motion on behalf of the department seeking to intervene as a co-defendant in the lawsuit. (See *LLW Notes*, November/December 2007, pp. 15-16.)

For information on the Deer Trail facility, please contact Phil Retallick of Clean Harbors at (803) 691-3427. For information on Colorado state regulations, please contact Gary Baughman of the Colorado Department of Public Health and Environment at (303) 692-3338. For information on Adams County's complaints, please contact Howard Kennison of Lindquist and Vennum at (303) 573-5900.

Federal Agencies and Committees *continued*

(Continued from page 1)

could emerge over a longer time period include the following:

- ♦ the consequences of extended (long-term) storage of LLW, particularly class B and C, at a variety of licensed facilities and the ultimate disposal of these wastes,
- ♦ the potential need to reevaluate Title 10, Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," of Code of Federal Regulations (10 CFR Part 61) to account for the fact that the types, forms, and quantities of commercial LLW that are and may be generated in the foreseeable future differ significantly from those projected during the development of 10 CFR Part 61.

Recommendation: The next update of the assessment should consider longer-range issues.

Observation: In a letter report dated August 16, 2006, the Committee previously recommended using the flexibility of 10 CFR 61.58, "Alternative Requirements for Waste Classification and Characteristics," to develop alternative classification approaches to take into account realistic waste concentration averaging, credit for waste form packaging, and the results of more risk-informed performance assessments while maintaining the principal protection criteria. The Committee is pleased that the 2007 LLW strategic assessment considers the development of guidance for the implementation of 10 CFR 61.58.

Recommendation: The Committee believes that the staff should accord a higher priority to the preparation of guidance for using 10 CFR 61.58.

Observation: Many tasks identified in the assessment are interdependent, and changes resulting from pursuing one task will have an impact on others. For example, Tasks 2, 7, 11 and 12 clearly overlap. Action on one or more of these tasks is likely to affect the

others. The interrelationship between the proposed revision of the branch technical position on concentration averaging and the 10 CFR 61.58 task described earlier is an example.

Recommendation: It is clear that many of the tasks scheduled for work in 2008 and the remainder of the 20 tasks identified in the assessment are interdependent. The Committee recommends that the staff consider the interdependence of tasks identified during its work in 2008 and the impacts this interdependence may have on the priorities of future work.

Observation: The 2007 LLW strategic assessment is based on the current LLW management situation. However, this situation is dynamic.

Recommendation: The staff should update the 2007 LLW strategic assessment Commission paper approximately every 3 years.

For additional information, please contact Mike Lee of the ACNW&M at (301) 415-6887 or mpl@nrc.gov.

Advisory Committee on Nuclear Waste & Materials

ACNW&M Holds March Meeting

The U.S. Nuclear Regulatory Commission's Advisory Committee on Nuclear Waste and Materials (ACNW&M) met on March 18 – 20 at the agency's headquarters in Rockville, Maryland to discuss, among other things, resolution of burn-up credit issues for licensing spent nuclear fuel transportation casks. In addition, the Committee discussed proposed reports on matters considered during previous meetings.

The ACNW&M reports to and advises the Commission on all aspects of nuclear waste and materials management. ACNW&M meetings are open to the public, although portions may be closed to protect information that is pre-decisional.

Complete ACNW&M meeting agendas may be found on the NRC's web site at <http://www.nrc.gov/reading-rm/doc-collections/acnw/agenda/2008/>.

Advisory Committee on Reactor Safeguards

ACRS Holds March Meeting

The U.S. Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS) held a public meeting on March 6 – 8 at the agency's headquarters in Rockville, Maryland. During the course of the meeting, among other things, the Committee discussed topics of interest to NRC Commissioner Peter Lyons and the staff's final safety evaluation report for review of the license renewal applications for both the James A. Fitzpatrick and the Vermont Yankee nuclear power stations.

Previously, the committee held a public meeting in Rockville, Maryland on February 7 – 9. During the course of that meeting, ACRS committee members discussed, among other things, final review of the license renewal application for the Vermont Yankee nuclear power station, proposed licensing strategy for the next generation of nuclear plants, and results of the nuclear plant cable response to live fire testing and fire model improvement program.

The ACRS advises the Commission on licensing and operation of nuclear power plants and related safety issues. ACRS meetings are open to the public, though portions may be closed to protect proprietary information.

Complete ACRS agendas may be found on the NRC's web site at <http://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/2008/>.

Advisory Committees (ACNW&M and ACRS)

Transition Schedule for Advisory Committees Merger

In mid-February, the U.S. Nuclear Regulatory Commission issued a transition schedule for the planned merger of the agency's Advisory Committee on Nuclear Waste & Materials (ACNW&M) into the Advisory Committee on Reactor Safeguards (ACRS). Under the schedule, the transition is expected to be completed by the end of May 2008.

ACNW&M will continue to meet until May in order to complete work already on its agenda including several letter reports to the Commission on issues related to the proposed high-level waste repository at Yucca Mountain; the health effects of low doses of radiation; the NRC staff's strategic assessment of low-level waste regulation; use of burn-up credit in the transportation of spent nuclear fuel; and the recommendations of the International Commission on Radiological Protection on collective dose estimates. In addition, ACNW&M will complete a white paper on the Resource Conservation and Recovery Act and low-level radioactive waste disposal.

“With the committee's work coming to an end, the time is right to use the members' expertise in health physics and other specialties in areas where they will be in increasing demand—namely in licensing of new reactors and other nuclear facilities,” said ACNW&M Chairman Michael Ryan.

After the ACNW&M completes its work in May, NRC plans to offer the Committee's members positions as consultants to the ACRS. There is currently a vacancy on the ACRS, which it intends to fill with an expert in nuclear materials and radiation protection. The new member will serve as a Subcommittee Chairman in charge of issues formerly covered by the ACNW&M.

U.S. Department of Energy

Information Requested re Yucca Mountain Hearing

In preparation for an anticipated application from the U.S. Department of Energy for a proposed high-level radioactive waste repository at Yucca Mountain, the Advisory Pre-License Application Presiding Officer Board ("PAPO Board") has requested information from potential parties to a possible adjudicatory hearing on the matter. The PAPO Board did so in order to help establish case management requirements and procedures so as to maintain the strict schedule established in NRC's regulations for any such proceeding. The PAPO Board plans to use the information to make recommendations on the hearing process to the Commission. Potential parties to the proceeding would include any members of the public; public interest or nuclear industry organizations; or federal, tribal, state or local government entities that wish to introduce or litigate a legal or technical issue.

DOE, which is required by law to submit any application for a high-level waste repository to NRC, has indicated an intention to do so by the end of this summer. NRC is required by law to complete its review within three years, with a possible extension of one year. In order to meet these requirements, NRC regulations establish a rigorous schedule for an adjudicatory hearing on the application.

In its first request for information, issued in the *Federal Register* on March 6, the PAPO Board has asked potential intervenors to estimate the number of contentions that they might file, as well as how much time they would need to answer contentions or reply to answers from other parties. Potential parties were asked to respond by March 24 using specified procedures. The PAPO Board anticipates requesting additional information from potential parties as other procedural subjects arise. Such requests will be the only opportunities for potential

parties to influence the PAPO Board's recommendations to the Commission on procedural requirements for the hearing.

DOE/NRC

Feds Host Workshop re Extended Life of Power Plants

From February 19 – 21, two federal agencies held a joint public workshop to discuss technical issues and research topics for potential extended operation of the nation's nuclear power plants beyond 60 years. The workshop, which was hosted by the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission, was held at the Hyatt Regency Bethesda.

The nation's 104 operating light-water reactors were initially licensed to operate for 40 years. NRC regulations provide that utilities may apply to renew these licenses for an additional 20 years. To date, 48 reactor licenses have been renewed and 11 other license renewal applications are under review. (See related story, this issue.) As part of the renewal process, applicants must provide to NRC an evaluation addressing the technical aspects of plant aging and describing the ways in which those effects will be managed. License renewal applicants must also describe the potential impact on the environment if the plant operates for another 20 years. Applications are reviewed by NRC, which verifies the safety evaluations through inspections and prepares its own environmental analysis.

The number of times that a reactor license may be renewed is not limited by NRC regulations. The workshop, in anticipation of utilities seeking to extend the life of reactors beyond 60 years, attempted to identify technical issues that may require resolution to support long-term operations, identify prioritized research areas, and identify appropriate roles for industry, DOE and NRC in a

Federal Agencies and Committees *continued*

collaborative effort to ensure safe, long-term reactor operation.

For additional information, please contact C.E. Carpenter of the NRC Office of Nuclear Regulatory Research at (301) 415-7333. A detailed agenda for the workshop can be found on the workshop site at <http://www.energetics.com/nrcdoefeb08>.

U.S. Nuclear Regulatory Commission

Chairman Klein Discusses Waste Challenges at WM '08

At the Waste Management '08 Symposium in Phoenix, Arizona on February 25, NRC Chairman Dale Klein delivered prepared remarks titled "Waste Confidence and Waste Challenges: Managing Radioactive Materials." During the speech, Klein touched upon various topics including, among other things, the proposed Yucca Mountain repository, re-use and recycle of fuel, the agency's waste confidence rule and low-level radioactive waste disposal. In regard to the latter issue, Klein stated in part as follows:

As all of you know, low-level waste is an area that may present significant challenges in the future. We have become more efficient at controlling and managing low-level waste, but we have not done a good job at increasing disposal capacity. Fortunately, the huge increases in the amount of low-level waste the industry has to deal with have been averted because of plant life extensions. Right now, more than half of the operating nuclear power plants have received or are applying for a 20-year license renewal, thus delaying the massive decommissioning waste that some expected might occur at the end of the initial 40-year license period.

But, of course, life extensions just kick the can down the road. Even with another round of license renewals, giving plants life extensions beyond 60 years, we would still have to confront the immense challenge of decommissioning waste when these plants eventually cease operations. This is something all of us need to think about in the coming years.

Klein then reported on the completion of NRC staff's strategic assessment of the agency's low-level waste regulatory program, noting that it was prompted in part by the pending closure of the Barnwell facility to out-of-region waste and concerns raised in reports by the National Academy of Sciences, the Government Accountability Office, and NRC's Advisory Committee on Nuclear Waste & Materials. Klein also reviewed initiatives being pursued by NRC staff in anticipation of the impacts of the loss of Class B and C disposal access by 36 states including the issuance of revisions to existing NRC guidance on extended interim storage for fuel cycle facilities and materials licensees and review of guidance prepared by the Electric Power Research Institute for nuclear utilities.

Klein concluded his remarks by assuring attendees that the agency is studying contingencies and addressing some specific challenges. He emphasized that he does not "foresee any immediate crisis" in the disposal of low-level waste, but asserted that "now is the time to get things in place so that we can avoid a crisis in the future.

To view a complete copy of Chairman Klein's speech, go to www.nrc.gov.

U.S. Nuclear Regulatory Commission

Commissioner Jaczko Addresses ACNW&M re LLW Disposal

On February 13, 2008, Commissioner Gregory Jaczko of the U.S. Nuclear Regulatory Commission addressed the Advisory Committee on Nuclear Waste & Materials (ACNW&M) on the issue of low-level radioactive waste management and disposal. “While there is no looming crisis,” said Jackzo, “I believe now is the time to look for solutions to address the needs that have been identified.”

In prepared remarks titled “Can We Expand Low-Level Radioactive Waste Disposal to Resource Conservation and Recovery Act Hazardous Waste Facilities,” Jackzo told ACNW&M members that he believes that low-level waste disposal challenges impact Commission decisions about decommissioning reactor and materials facilities. All of these facilities will eventually generate large amounts of low-level radioactive waste and, in particular, Class A waste. Alternative solutions will be needed, said Jackzo, particularly with the pending closure of the Barnwell facility to out-of-region waste. Jackzo specifically cited the radioactive materials permit recently issued to Clean Harbors for limited disposal of certain low-activity waste at the company’s Deer Trail facility as an example of the potential for Resource Conservation and Recovery Act (RCRA) sites to safely accept some radioactive waste.

“[T]he important discussion taking place at this meeting is whether the science and engineering behind RCRA hazardous waste sites supports a more broad application of the use of these facilities,” said Jackzo. “A question I hope is answered through your efforts here today, is whether these RCRA facilities, given their current design or through some modifications, could be easily licensed by the NRC or Agreement States to

accept the waste from sites that are undergoing decommissioning.”

In concluding his remarks, Jackzo acknowledged that garnering public support is an important part of the process. “If the science and engineering demonstrate that additional RCRA hazardous waste facilities, as designed or modified, can support the safe management and disposal of these wastes,” said Jackzo, “then we will need input from, and the support of, the public to implement such an alternative.”

NRC Establishes McGaffigan Award for Public Service

On March 11, 2008, the U.S. Nuclear Regulatory Commission announced that it will establish the Edward McGaffigan Jr. Public Service Award in memory of the agency’s longest-serving Commissioner who died last year after a long battle with cancer. The award will be a career tribute given to a current NRC employee or recent retiree who demonstrates an extraordinary commitment to public service and exemplifies the integrity, professional dedication, and moral character that Commissioner McGaffigan exhibited in his decades of public service. The agency plans to consider the award annually, but only to grant it when a nominee meets all of its specifications and requirements.

McGaffigan dedicated more than 31 years of his life to public service and regarded answering John F. Kennedy’s call to public service as both a duty and a privilege. He fulfilled that duty with the highest distinction.

“The nation owes Ed a debt of gratitude for his 31 years of public service in various positions throughout the government,” said NRC Chairman Dale Klein. “But it was the NRC where he spent the last and a very substantial part of his career, and which benefited greatly from his honesty, his

Federal Agencies and Committees *continued*

energy, and his keen intelligence. This award is a small token of our appreciation for everything Commissioner McGaffigan did to make the NRC a better regulator and a better place to work.”

McGaffigan was appointed to the Commission by President Bill Clinton in 1996 and 2000, and by President George W. Bush in 2005. He was the first Commissioner in the agency’s history to be nominated for a third term. On November 3, 2006, he became the panel’s longest serving member and was awarded the agency’s highest honor, the Distinguished Service Award. On December 8, 2006, he marked 10 years of service to the NRC, where he continued to work until the last week of his life in September 2007 despite intensive and debilitating medical treatment for his cancer.

License Renewals Continue to Move Forward

The U.S. Nuclear Regulatory Commission continues to process license renewal applications from various nuclear power plant operators. In that regard, the agency recently

- ♦ announced the availability of and opportunity to request a hearing on an application for renewal of the operating license for the Three Mile Island nuclear power plant, Unit 1, and conducted two public meetings to discuss the agency’s review process,
- ♦ heard oral arguments in the Indian Point nuclear power plant license renewal proceeding, and
- ♦ issued its final environmental impact statement on the proposed renewal of the operating license for the James A. Fitzpatrick nuclear power plant.

Three Mile Island Nuclear Power Plant

On January 28, the U.S. Nuclear Regulatory Commission announced that an application for a 20

-year renewal of the operating license for the Three Mile Island nuclear power plant, Unit 1, is available for public review. The agency then conducted public meetings in the vicinity of the plant on March 4 to discuss the review process and hear from members of the public about any potential concerns. And, on March 10, NRC announced the opportunity to request a hearing on the license renewal application.

The Three Mile Island Nuclear Station Unit 1 is a pressurized water reactor located 10 miles southeast of Harrisburg, Pennsylvania. The current operating license expires on April 19, 2014. Unit 2 was shut down in March 1979 following a partial meltdown and has been out of service since the event. It has been defueled and decontaminated to the extent that the plant is in a safe, stable condition suitable for long-term monitoring. Three Mile Island 1 was not affected by the accident and has had a safe operating record for many years.

Three Mile Island’s operator, AmerGen Energy Co., a subsidiary of Exelon Generating Co. LLC, submitted the renewal application on January 8, 2008. NRC staff has determined that the application contains sufficient information for the agency to formally “docket,” or file, it and begin technical and environmental reviews. Docketing the application does not preclude requesting additional information as the reviews proceed, nor does it indicate whether the Commission will renew the license.

A copy of the Three Mile Island renewal application is available on the NRC web site at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.three-mile-island.html>.

Indian Point Nuclear Plant

On March 10, a three-judge panel from the Atomic Safety and Licensing Board (ASLB) began hearing oral arguments on the license renewal application for the Indian Point nuclear power plant. During the sessions, the ASLB considered the admissibility of contentions and other outstanding matters related to the proceeding. The ASLB, which is a

Federal Agencies and Committees *continued*

judicial component of NRC tasked with conducting all licensing and other hearings, operates independently of NRC technical staff.

Indian Point's operator, Entergy Nuclear Operations, submitted a license renewal application on April 30, 2007. The application seeks a 20-year renewal of the operating license for Units 2 and 3. Both units are pressurized water reactors located in Buchanan, New York—approximately 24 miles north of New York City. The current operating licenses expire on September 28, 2013, for Unit 2 and on December 12, 2015, for Unit 3. Unit 1 was shut down in 1974.

Numerous governmental entities and organizations have submitted requests for a hearing on the Indian Point license renewal application.

A copy of the Indian Point nuclear power plant renewal application, as well as the environmental report submitted by Entergy Nuclear Operations, is available at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.indian-point.html>.

James A. Fitzpatrick Nuclear Power Plant

On January 29, NRC issued its final environmental impact statement on the proposed renewal of the operating license for the James A. Fitzpatrick nuclear power plant. The report contains the NRC's finding that there are no environmental impacts that would preclude license renewal for an additional 20 years of operation.

As part of its environmental review, NRC held meetings near the plant to discuss the scope of the review and the draft version of the environmental impact statement. Comments were received and considered from members of the public, local officials, and representatives of state and federal agencies. Publication of the final environmental impact statement does not represent final NRC action on the license renewal application. The agency staff is completing its safety evaluation report, and the NRC's Advisory Committee on Reactor Safeguards will evaluate that report and

make its recommendation before the agency makes a final decision.

The Fitzpatrick plant is a boiling water reactor located approximately eight miles northeast of Oswego, New York. Its current operating license expires on October 17, 2014. The applicant, Entergy Nuclear Operations, Inc., submitted a renewal application on August 1.

A copy of the Fitzpatrick plant license renewal request, along with the associated environmental report, is available on the NRC web site at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.fitzpatrick.html>. The final environmental impact statement can be found at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1437/supplement31/>.

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 48 reactor units. In addition, NRC is currently processing license renewal requests for several 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>.

Progress Continues re COL Application Reviews

The U.S. Nuclear Regulatory Commission is currently reviewing Combined License (COL) applications for reactors at five locations including:

- ◆ the Lee site in South Carolina;
- ◆ the South Texas Project site in Texas;

- ♦ the Bellefonte site in Alabama;
- ♦ the North Anna site in Virginia; and,
- ♦ a partial application for the Calvert Cliffs site in Maryland.

The agency is also conducting acceptance checks on applications for the Harris site in North Carolina and the Grand Gulf site in Mississippi. (See related stories, this issue.)

NRC expects an additional 12 applications to be submitted in 2008.

Information about the new reactor licensing process is available on the NRC web site at <http://www.nrc.gov/reactors/new-reactor-licensing.html>.

Evolutionary Power Reactor Design to be Reviewed

The U.S. Nuclear Regulatory Commission has accepted for review an application from Areva for certification of the Evolutionary Power Reactor (EPR) design. A large pressurized water reactor of evolutionary design, the EPR has a design output of approximately 1,600 megawatts of electricity. The EPR is currently under construction at the Olkiluoto site in Finland and at Flamanville, France. Areva filed an application for NRC to certify the design on December 11, 2007. The docket number established for the application is 52-020. Docketing does not indicate whether NRC will approve or reject the request.

Certification of the EPR by NRC would allow a company applying for a license to build and operate a new nuclear plant in the United States to choose to use the design and reference it in the application. Safety issues resolved within the scope of the design certification are not subject to litigation with respect to that individual license application, although site specific design information and environmental impacts associated with building and operating the

plant at a particular location could be litigated. To date, NRC has certified four other standard reactor designs. In addition, NRC is currently reviewing General Electric's Economic Simplified Boiling Water Reactor and Mitsubishi's US-Advanced Pressurized Water Reactor design. (See related story, this issue.)

Technical review of the EPR application will include requests for additional information, as needed, as well as the issuance of a Safety Evaluation Report once all technical and safety questions have been resolved. NRC would then certify the design through an agency rulemaking, which includes an opportunity for participation from interested members of the public.

The EPR application, minus proprietary or security-related details, is available on the NRC's web site at <http://www.nrc.gov/reactors/new-licensing/design-cert/epr.html>. Information about the design certification process can be found at <http://www.nrc.gov/reactors/new-licensing/design-cert.html>. NRC's regulations describe the certification process in Subpart B of Part 52 which is available at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part052/>.

US-APWR Design to be Reviewed

The U.S. Nuclear Regulatory Commission has accepted for review an application from Mitsubishi Heavy Industries for certification of the U.S. Advanced Pressurized Water Reactor (US-APWR) design. The design, of which a similar version is currently under review in Japan, is for a nuclear power plant capable of producing approximately 1,700 megawatts of electricity. NRC said that it is expecting an application later this year from a company that wants permission to build and operate a US-APWR in Texas. Mitsubishi filed an application for NRC certification of the design on December 31, 2007. The agency expects the APWR design certification review to continue at

least into 2011. The docket number established for the application is 52-021. Docketing does not indicate whether NRC will approve or reject the request.

Certification of the APWR by NRC would allow a company applying for a license to build and operate a new nuclear plant in the United States to choose to use the design and reference it in the application. Safety issues resolved within the scope of the design certification are not subject to litigation with respect to that individual license application, although site specific design information and environmental impacts associated with building and operating the plant at a particular location could be litigated. To date, NRC has certified four other standard reactor designs. In addition, NRC is currently reviewing General Electric's Economic Simplified Boiling Water Reactor and Areva's Evolutionary Power Reactor (EPR) design. (See related story, this issue.)

Technical review of the APWR application will include requests for additional information, as needed, as well as the issuance of a Safety Evaluation Report once all technical and safety questions have been resolved. NRC would then certify the design through an agency rulemaking, which includes an opportunity for participation from interested members of the public.

The APWR application, minus proprietary or security-related details, is available on the NRC's web site at <http://www.nrc.gov/reactors/new-licensing/design-cert/apwr.html>. Information about the design certification process can be found at <http://www.nrc.gov/reactors/new-licensing/design-cert.html>. NRC's regulations describe the certification process in Subpart B of Part 52 which is available at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part052/>.

NRC Issues FY 2008 – 2013 Strategic Plan

In February 2008, the U.S. Nuclear Regulatory Commission issued a new Strategic Plan for Fiscal Years 2008 to 2013. The plan establishes how the agency intends to carry out its mission to protect people and the environment by licensing and regulating the safe and secure use and management of radioactive materials for the public good. According to the agency, stakeholder feedback was particularly valuable in helping the Commission to develop a clear and comprehensive plan.

“This Strategic Plan reflects real world changes and describes how the NRC as a strong, independent and stable regulator will continue to ensure the safe use of radioactive materials and nuclear power in a dynamic environment,” said NRC Chairman Dale Klein. “Some of the more significant challenges facing the agency over the next several years include the expected receipt of applications to construct and operate new nuclear power plants and a high-level nuclear waste facility.”

The document sets forth two goals: to ensure adequate protection of the public health and safety and to ensure adequate protection in the secure use and management of radioactive material. It reflects greater emphasis being placed on improving regulatory processes for ensuring the safety of new power reactors while reflecting the agency's continuing priority to ensure that existing reactors continue to operate safely. Strategies also reflect increased security requirements for radioactive sources and highly-enriched uranium fuel.

There are three organizational excellence objectives identified by the plan including:

1. openness – keep stakeholders informed about and have an opportunity to participate in NRC's regulatory process;
2. effectiveness – take actions that are high-quality, efficient and realistic; and,

3. operational excellence – use business methods and solutions to achieve NRC’s mission.

The plan emphasizes the importance of effective leadership and the relationship between human capital, knowledge management and space challenges that must be addressed in order to ensure that the agency can succeed. The agency plans to measure its success at achieving each goal primarily through performance measures that were developed for NRC’s annual performance budget. The results will be reported in the annual Performance and Accountability Report.

The new Strategic Plan (NUREG-1614, Volume 4) is available on the NRC’s web site at <http://www.nrc.gov> in the lower left-hand corner of the Home Page.

NRC’s Regulatory Information Conference Held in March

Enhancing Safety During the Global Nuclear Renaissance

From March 11-13, 2008, the U.S. Nuclear Regulatory Commission held its 20th Annual Regulatory Information Conference (RIC) at the Bethesda North Marriott Hotel and Conference Center across from the agency’s headquarters. More than 2,300 people attended the conference—which brings together NRC staff, regulated utilities, nuclear material users and other interested stakeholders to discuss nuclear safety topics, significant and timely regulatory activities and allow informal dialogue to help ensure an open regulatory process—including representatives from more than 25 foreign countries, the nuclear industry and congressional staff. This year’s theme was *Enhancing Safety During the Global Nuclear Renaissance*.

The conference is a joint presentation of the NRC’s Offices of Nuclear Reactor Regulation and Nuclear

Regulatory Research. NRC Chairman Dale Klein spoke at the conference, as did Commissioners Gregory Jaczko and Peter Lyons, as well as Executive Director for Operations Luis Reyes.

Topics discussed at this year’s RIC conference included the following: construction and licensing of new nuclear power plants; safe disposal of nuclear waste; advanced reactor designs to improve safety; security and emergency preparedness; safety research and international experience with operating reactors. The conference sessions were organized by six tracks as follows: general plenary sessions; operating reactors; reactor research; new reactors; security, emergency preparedness and fuel cycle; and, regional breakout.

A copy of the full conference program can be found on the NRC’s web site at <http://www.nrc.gov/public-involve/conference-symposia/ric/program.pdf>.

Annual Plant Assessments Issued

On March 6, 2008, the U.S. Nuclear Regulatory Commission announced that it had issued annual assessment letters to the nation’s 104 operating commercial nuclear power plants. In so doing, NRC found that all of the plants continue to operate safely. In addition, the agency issued an inspection plan for the coming year to each plant.

“Our ongoing assessment of nuclear power plant performance is at the heart of the agency’s mission of protecting people and the environment,” said Frederick Brown, Director of the Division of Inspection and Regional Support in the NRC’s Office of Nuclear Reactor Regulation. “The 2007 year-end results show that about 80 percent of the plants are performing strongly enough that we’re satisfied with our basic level of inspections at those locations.”

According to the notice, NRC assigns additional personnel to ensure appropriate steps are being taken to correct the situation if a nuclear power plants performance declines. After the latest assessments, only one plant—Palo Verde in Arizona—requires the agency's highest level of attention. The plant will continue to undergo additional inspections this year to confirm that its performance issues are being addressed. Eight other plants require significant NRC attention, and another eight other plants will get some additional attention beyond the basic level.

NRC plans to meet publicly with the operators of every plant in nearby locations later this spring or summer to discuss plant performance. A separate announcement will be issued for each plant meeting. In addition, updated information on plant performance will be posted to the agency's web site every quarter and mid-cycle assessment letters will be issued in September.

The assessment letters sent to each licensee are available on the NRC web site at <http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/index.html>.

Nuclear Education Grants Announced

In mid-February 2008, the U.S. Nuclear Regulatory Commission announced nuclear education grant opportunities for fiscal year 2008 for trade school scholarships, undergraduate scholarships, graduate fellowships and faculty development grants to qualified academic institutions. The opportunities result from Congressional authorization for the agency to provide \$15 million in grants to support education in nuclear science, technology, and engineering in an effort to develop a workforce capable of supporting the design, construction and operation, and regulation of commercial nuclear facilities, as well as the safe handling of nuclear materials.

"Congress realizes that the United States is experiencing a renewed interest in nuclear power," said NRC Chairman Dale Klein. "The NRC has already received several applications for new reactors. To meet expected workforce needs in this regard, it is vital that the country provide opportunities that will encourage careers and research in nuclear engineering and related fields."

NRC's Nuclear Education Grants provide funding for undergraduate scholarships, graduate fellowships, trade school scholarships, and faculty development grants. The exact amount of funds recommended for each grant is determined in pre-award negotiations between the applicant and the agency. Grants are only awarded to accredited U.S. institutions of higher education. Individual scholarships or fellowships are not awarded by the agency.

The nuclear education opportunity for grants can be found at www.grants.gov, the central storehouse for information on federally funded grant programs. For administrative questions, please contact Nicole Pratt of the Division of Contracts at (301) 415-0236. For technical questions, please contact John Gutteridge of the Office of Human Resources at (301) 492-2313.

Obtaining Publications

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 reports, information digests, and regulatory guides).....www.nrc.gov
- EPA Listserve Network • Contact Lockheed Martin EPA Technical Support at (800) 334-2405 or e-mail (leave subject blank and type help in body of message).....listserv@unixmail.rtpnc.epa.gov
- EPA • (for program information, publications, laws and regulations) www.epa.gov
- U.S. Government Printing Office (GPO) (for the Congressional Record, *Federal Register*, congressional bills and other documents, and access to more than 70 government databases)..... www.access.gpo.gov
- 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 www.llwforum.org

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 www.llwforum.org. 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.

Low-Level Radioactive Waste Disposal Compact Membership



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

Northwest 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