

# LLW *notes*

Volume 25, Number 2 March/April 2010

## ***U.S. Nuclear Regulatory Commission***

### **NRC Releases Commission Paper on LLW Blending**

The U.S. Nuclear Regulatory Commission recently released a Commission paper on the blending of low-level radioactive waste. After evaluating a variety of options, NRC staff concludes, “the current blending positions would be improved if they were risk-informed and performance based, and were specified in regulation and further clarified in guidance.”

*The paper—which is dated April 7, 2010—may be found at <http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2010/secy2010-0043/2010-0043scy.pdf>.*

#### **Purpose**

By memorandum dated October 8, 2009, NRC Chairman Gregory Jaczko directed staff to put together a paper on the blending of low-level radioactive waste. NRC attributed the review to the closure of Barnwell to out-of-region waste generators, which has caused the industry to examine methods for reducing the generation of Class B and C wastes—including the blending of some types of Class B and C waste with similar Class A waste to produce a Class A mixture that may be disposed of at a currently licensed facility.

The purpose of the paper is to identify policy, safety and regulatory issues associated with the

blending of low-level radioactive waste, as well as to provide options for an agency position on the issue and to make recommendations for a future blending policy.

#### **Summary**

NRC states that, “While recognizing that some mixing of waste is unavoidable, and may even be necessary and appropriate for efficiency and dose reduction purposes, NRC has historically discouraged mixing LLRW to lower the classification of waste in other circumstances.”

Nonetheless, the agency recognizes that the closure of Barnwell to out-of-region waste has prompted renewed interest in blending. “Such mixing could promote the goal of disposal of

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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.

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# Low-Level Radioactive Waste Forum, Inc.

## LLW Notes

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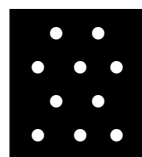
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## Key to Abbreviations

U.S. Department of Energy .....	DOE
U.S. Department of Transportation .....	DOT
U.S. Environmental Protection Agency .....	EPA
U.S. 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.***

### **LLW Forum Holds Spring 2010 Meeting Austin, Texas**

The Low-Level Radioactive Waste Forum met in Austin, Texas on March 22-23, 2010. The meeting, which was co-hosted by the State of Texas and Waste Control Specialists LLC, was held at the Omni Hotel.

In addition, on March 24, 2010, an optional site tour of the Waste Control Specialists and URENCO USA National Enrichment Facility sites was conducted for interested meeting attendees.

#### **Executive Committee Meeting**

The LLW Forum's Board of Directors met on Monday morning before the start of the regular meeting. During the course of the meeting, the Board received the financial report for 2009 and the financial projections for 2010. The Board also held an election for officers and a new Executive Committee. (See related story, this issue.)

The Board next met with Jerry Bonanno of the Nuclear Energy Institute regarding the development of a special session at the fall 2010 meeting on waste management plans developed and instituted by foreign countries. The LLW Forum and NEI will work together to develop this session for the next meeting and currently plan to invite representatives from three foreign countries to discuss their national waste management plans and strategies.

The Board also received reports from future meeting hosts and was provided information regarding the panel session that was organized by the LLW Forum for the recent Waste Management Symposia in Phoenix, Arizona. The session was titled "Hot Topics and Emerging Issues in US Commercial LLRW Management."

#### **Regular LLW Forum Meeting**

During the regular meeting of the LLW Forum, the following topics—among others—were addressed and discussed:

- ♦ reports on new developments by states, compacts, federal agencies, and industry members;
- ♦ licensing and activities updates regarding the planned Waste Control Specialists low-level radioactive waste disposal facility in Andrews County, Texas;
- ♦ revisiting of the U.S. Nuclear Regulatory Commission's regulations in Part 61 and consideration of the development of a risk-informed classification system;
- ♦ coordination and execution of a clean-up from a hypothetical incident involving a radiological dispersal device;
- ♦ current NRC policy, stakeholder input and the development of a white paper regarding the blending of low-level radioactive waste;
- ♦ status report on the U.S. Environmental Protection Agency's low-activity waste initiative;
- ♦ updates and overview regarding the U.S. Department of Energy's low-level radioactive waste management and disposal activities including the disposal of Greater-than-Class C waste, a complex-wide review and update of the department's Order 435.1, and budgetary and other considerations;
- ♦ assessing the impacts of the lack of waste disposal access on research and at hospitals and universities;

## Low-Level Radioactive Waste Forum, Inc. *continued*

- ◆ addressing shortfalls in decommissioning funds at U.S. nuclear power plants;
- ◆ review of passage in the House of the Radioactive Import Deterrence Act and analysis of prospects for its passage in the Senate;
- ◆ NRC's review of the disposal of large quantities of depleted uranium;
- ◆ pending application by International Isotopes for uranium de-conversion and fluorine extraction processing facility;
- ◆ commencing operations at URENCO USA's national enrichment facility—the first commercial centrifuge uranium enrichment plant built in the U.S.;
- ◆ report from the U.S. representative on the Joint Convention on the Safety of Radioactive Waste Management;
- ◆ report on the recently submitted deliverable and future plans and activities of the Disused Source Focus Group;
- ◆ report from the Conference of Radiation Control Program Directors on activities related to low-level radioactive waste management and disposal, including the Source Collection and Threat Reduction (SCATR) program for the disposal of unwanted sources; and,
- ◆ proposed revisions regarding license renewal of nuclear power plants and the impacts on waste management and disposal planning.

### Dinner Event

All meeting attendees were invited to join the LLW Forum for a special evening event featuring a special tour of the Texas Disposal Systems Exotic Game Ranch, skeet/sporting clay events, Texas-themed dinner, and one-of-a-kind Central Texas evening under the stars.

The dinner event was co-sponsored by Waste Control Specialists and Texas Disposal Systems.

### Optional Site Tours

Following the LLW Forum meeting, an optional site tour of the Waste Control Specialists and URENCO USA National Enrichment Facility sites was offered to interested attendees.

Participants travel to Midland, Texas on Tuesday afternoon, March 23 and visited the facility sites on Wednesday, March 24.

*For additional information, please contact Todd D. Lovinger, the LLW Forum's Executive Director, at (202) 265-7990 or at [LLWForumInc@aol.com](mailto:LLWForumInc@aol.com).*

## LLW Forum Elects New Officers and Executive Committee

At the Spring 2010 meeting of the Low-Level Radioactive Waste Forum, the organization's Board of Directors elected new officers and a new Executive Committee.

Mike Garner of the Northwest Compact was elected as the new Chair-Elect of the organization. Leonard Slosky of the Rocky Mountain Board took over as the new Chair of the organization, effective at the conclusion of the meeting, and Marcia Marr of the Central Midwest Compact became the Past-Chair. Ted Buckner of the Southeast Compact will continue to serve as the Treasurer.

In addition to the four aforementioned officers, the Board elected the following individuals to serve on the Executive Committee: Max Batavia of the Atlantic Compact, Larry Goldstein of the

*(Continued on page 38)*

## Low-Level Radioactive Waste Forum Meetings *2010 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](http://www.llwforum.org).*

### **2010 Fall Meeting**

The State of New York has agreed to host the fall 2010 meeting in Saratoga Springs, New York from September 27-28, 2010. The meeting will be held at the Gideon Putman Resort & Spa. (For additional information about the hotel, please go to [http://www.historichotels.org/hotel/Gideon\\_Putnam\\_Resort\\_Spa](http://www.historichotels.org/hotel/Gideon_Putnam_Resort_Spa).) The hotel is currently undergoing a major renovation to be completed in spring 2010. The Gideon Putnam is located in the center of Saratoga Spa State Park about 1 mile outside downtown Saratoga Springs. Within walking distance on park grounds are two golf courses, the National Museum of Dance, the Saratoga Automobile Museum, the historic Roosevelt Mineral Baths and 10 natural mineral springs.

### **2011 Meetings**

The Southeast Compact Commission for Low-Level Radioactive Waste Management and the Central Interstate Low-Level Radioactive Waste Compact Commission have agreed to co-host the spring 2011 meeting of the LLW Forum at a location to be determined.

The Rocky Mountain Low-Level Radioactive Waste Board and the Midwest Interstate Low-Level Radioactive Waste Compact Commission will co-host the LLW Forum's fall 2011 meeting. The meeting is tentatively scheduled to be held in October in Santa Fe, New Mexico.

### **2012 Meetings and Beyond**

The Southwestern Low-Level Radioactive Waste Compact Commission and State of California will co-host the spring 2012 meeting of the LLW Forum. The meeting will be held at the Hyatt Regency San Francisco Airport Facility in Burlingame, California on April 24-25, 2012. The hotel—which is rated AAA Four Diamond Award Winning Service & Accommodations—has 24 hr complimentary shuttle service to and from the airport, as well as shuttle service from the hotel to the Bay Area Rapid Transit (BART) station.

The LLW Forum is currently seeking volunteers to host the other 2012 meeting and those thereafter. 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 D. Lovinger, the organization's Executive Director, at (202) 265-7990 or at [LLWForumInc@aol.com](mailto:LLWForumInc@aol.com).*

### ***Appalachian Compact/State of Delaware***

## **Hearing Opportunity re Hope Creek CO-60 Proposal**

The public is being offered an opportunity to provide comment and to request a hearing regarding a request from PSEG Nuclear for a pilot program to explore the production of Cobalt-60 at the Hope Creek Generating Station, located about 18 miles south of Wilmington, Delaware.

If approved, the requested license amendment would give PSEG permission to generate and transfer Cobalt-60 under the NRC's regulations for "byproduct" material. The Cobalt-60, as a radioactive material licensed by NRC and Agreement States, is used in applications such as cancer treatment and for irradiation sterilization of foods and medical devices.

In its amendment request, PSEG seeks permission to alter the reactor's core by inserting up to 12 modified fuel assemblies with rods containing Cobalt-59 pellets, which would absorb neutrons during reactor operation and become Cobalt-60. PSEG's pilot program would gather data to verify that the modified fuel assemblies perform satisfactorily in service prior to use on a production basis. If the amendment is granted, PSEG has informed NRC that it plans to insert the modified assemblies during Hope Creek's planned fall 2010 refueling outage.

NRC staff review of the amendment request will include evaluating the potential effects of the modified fuel assemblies on plant operation and accident scenarios. The amendment will only be approved if staff concludes that the modified core will continue to meet the agency's safety requirements.

NRC issued a *Federal Register* notice on March 2 seeking public comment and offering the

opportunity to request a hearing on the license amendment request. Petitions requesting a hearing must be filed by May 3 by anyone whose interest may be affected by the license amendment and who wishes to participate as a party in the proceeding.

*NRC's Federal Register notice regarding the opportunity for comment and to request a hearing may be found at [http://www.access.gpo.gov/su\\_docs/fedreg/a100302c.html](http://www.access.gpo.gov/su_docs/fedreg/a100302c.html).*

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### ***Northwest Compact/State of Idaho***

## **US Ecology Announces FY 2009 Earnings**

On March 4, 2010, US Ecology, Inc. (ECOL) released its financial results for the fourth quarter and fiscal year ended December 31, 2009. Although net income and revenue were down both for the quarter and the year, all four of the company's disposal facilities remained profitable.

For the fourth quarter of 2009, net income was \$2.6 million, or \$0.15 per diluted share, down from net income of \$5.2 million, or \$0.29 per diluted share, in the fourth quarter of the prior year. Revenue for the fourth quarter was \$23.6 million, down from \$44.0 million in the same quarter of the prior year. This reflects decline in both transportation revenue and treatment and disposal revenue primarily due to the completion of the four-year Honeywell International ("Honeywell Jersey City") project in early October of 2009 and the Molycorp/Chevron Pennsylvania ("Molycorp") project that shipped waste in the fourth quarter of 2008 and was completed in early 2009.

Operating income for the year ended December 31, 2009 was \$23.1 million as compared to \$34.5 million in 2008. Net income for the full year was \$14.0 million, or \$0.77 per diluted share, as compared with net income of \$21.5 million, or \$1.18 per diluted share, in 2008. Revenue for the year ended December 31, 2009 was \$132.5 million compared with revenue of \$175.8 million for the year ended December 31, 2008. Disposal volumes for 2009 declined 35% to 774,000 tons from 1,192,000 tons in 2008.

Management currently projects 2010 earnings to range between \$0.57 and \$0.67 per diluted share. While this is an absolute decrease in year-over-year earnings per share, it represents a 10% to 29% growth in core earnings over 2009 levels after excluding the earnings impact of the Honeywell Jersey City project and insurance proceeds.

“2009 was a challenging year for our Company as revenue and earnings declined from our record performance in 2008,” stated President and Chief Executive Officer Jim Baumgardner. “In response, we moved quickly to reduce costs and recalibrate the business to a changing market environment. As a result, we entered 2010 with a leaner cost structure, broader customer base, focused service offering, and powerful waste handling infrastructure.”

*US Ecology, Inc. (formerly known as 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, petro-chemical facilities and the nuclear power industry. The company—which is headquartered in Boise, Idaho—is the oldest radioactive and hazardous waste services company in the United States.*

### ***Northwest Compact/State of Utah***

## **Utah Radiation Control Board Holds March & April Meetings**

The Utah Radiation Control Board held regularly scheduled meetings on Tuesday, March 9, 2010, and on Tuesday, April 13, 2010. The meetings—which were open to the public—were held in Conference Room 101 of Building No. 2 at 168 North 1950 West in Salt Lake City, Utah.

*Copies of the meeting agendas can be found at <http://www.radiationcontrol.utah.gov/Board/minagd/agenda.pdf>.*

### **March Meeting Agenda**

The following items were reported to the board during the March meeting:

- ♦ discussion of stakeholders responses to the Chairman’s questions about waste blending;
- ♦ update on Proposed License Condition 35 for the EnergySolutions’ Clive facility;
- ♦ monthly report on the Moab mill tailings remediation project;
- ♦ monthly report on the Savannah River depleted uranium sampling; and,
- ♦ activities report from the Division of Radiation Control.

A public comment session was held at the end of the meeting.



## States and Compacts *continued*

### April Meeting Agenda

The following items were on the April meeting agenda:

- ◆ board action on proposed amendment to R313-21, “General Licenses;”
- ◆ board action on proposed amendment to R313-34, “Requirements for Irradiators;”
- ◆ board action on the effective date for the Depleted Uranium Rule, R313-25-8;
- ◆ presentation to the board by Randy Horiuchi on policy and legal considerations for a waste blending rule;
- ◆ recommendations to the board from a subcommittee on waste blending; and,
- ◆ activities report from the Division of Radiation Control.

A public comment session was held at the end of the meeting.

### Radiation Control Board

The Radiation Control Board is appointed by the Utah Governor with the consent of the Utah Senate and guides development of Radiation Control policy and rules in the state.

The board holds open meetings ten times per year at locations throughout the state.

The next regularly scheduled board meeting is tentatively planned for Tuesday, May 11, 2010 at the same time and in the same location.

*For additional information, please contact Dane Finerfrock of the Utah Department of Environmental Quality, Radiation Control Board, at (801) 536-4250 or at [dfinerfrock@utah.gov](mailto:dfinerfrock@utah.gov).*

## Utah Radiation Control Board Seeks Applicants

On March 3, 2010, the Utah Department of Environmental Quality issued a notice encouraging qualified members of the public to apply for a term on the state’s Radiation Control Board.

Six individuals on the 13-member board have terms set to expire by July 1. The board is appointed by the Governor with the consent of the Senate and meets on the first Tuesday of each month to consider issues that effect uranium mills, medical X-ray users, radioactive waste disposal and those who use radioactive materials for commercial, research and industrial purposes.

The Board is structured in a manner so as to provide balanced representation from industry, academia, government and the public at large. Members can serve two four-year terms.

New applicants are requested for the following Board membership:

- ◆ elected county official,
- ◆ health physicist or other professional employed in the field of radiation safety,
- ◆ physician, and,
- ◆ three members of the general public, at least one of whom represents organized environmental interest.

All appointed members are expected to be knowledgeable about radiation protection.

Interested individuals may apply on-line at <http://www.governor.utah/boards/home.html>.

*For more information about the Radiation Control Board, please go to <http://www.radiationcontrol.utah.gov/Board/index.htm>.*

### Comments re Modification of Clive Groundwater Discharge Permit

The Utah Division of Radiation Control has issued a Public Participation Summary documenting public comments received in regard to a modification of EnergySolutions' Ground Water Quality Discharge Permit, No. UGW450005, for the low-level radioactive waste disposal facility located at Clive, Utah.

Of the four total comments received, one was a verbal comment provided during a public hearing in Salt Lake City, Utah on October 26, 2009. The other three were written comments received during the public comment period that ended on December 7, 2009.

These comments were considered in revising the requirements of the facility's Ground Water Quality Discharge Permit.

*The Public Participation Summary for the Proposed Modification of the EnergySolutions' Ground Water Quality Discharge Permit may be found at <http://www.radiationcontrol.utah.gov/EnSolutions/GW2009pUBLICpARTICIPATIONsUMMARY.pdf>*

*The final Groundwater Discharge Permit No. UGW450005 may be found at <http://www.radiationcontrol.utah.gov/EnSolutions/GW2009QualityDischargePermitUGW450005.pdf>.*

*For additional information, please contact Dane Finerfrock of the Utah Department of Environmental Quality, Radiation Control Board, at (801) 536-4250 or at [dfinerfrock@utah.gov](mailto:dfinerfrock@utah.gov).*

### Comments Solicited re Proposed White Mesa Changes

In early April 2010, the Utah Department of Environmental Quality provided public notice of a proposed modification to the Denison Mines (USA) Corp. Ground Water Quality Discharge Permit UGW370004 and an amendment to the Radioactive Materials License (UT 1900479). These changes are in regard to the construction and future operation of a new 40-acre uranium mill tailings disposal cell at the White Mesa Uranium Mill.

*The draft Permit Modification, Statement of Basis, draft License Amendment, and Safety Evaluation Report may be reviewed at the following link: [http://www.radiationcontrol.utah.gov/Uranium\\_Mills/IUC/cell4b/permitMod\\_licenseAmend.htm](http://www.radiationcontrol.utah.gov/Uranium_Mills/IUC/cell4b/permitMod_licenseAmend.htm).*

#### Permit Modification

Major changes associated with this Permit modification include, but are not limited to, the following:

- ♦ definition of Engineered Design Standards for Tailings Cell 4B;
- ♦ definition of BAT performance standards for Tailings Cell 4B;
- ♦ Installation of at least three new groundwater compliance monitoring wells hydraulically downgradient of Cell 4B;
- ♦ quarterly groundwater sampling program in the three new monitoring wells at Cell 4B and later submittal of a background groundwater quality report;
- ♦ submittal of an additional hydrogeologic investigation study report of nearby seeps and Ruin Spring; and,

## States and Compacts *continued*

- ♦ submittal of an engineering As-Built Report to document Cell 4B construction.

### License Amendment

Major changes associated with this License Amendment (34) include, but are not limited to, the following:

- ♦ prohibition from use and/or operation of any tailings disposal cell, or related new permanent fixture or facility, without prior approval of financial surety;
- ♦ submittal of an updated Reclamation Plan and Specifications, for approval to include Tailings Cell 4B;
- ♦ changes in tailings cell wastewater freeboard requirements;
- ♦ submit for approval written Standard Operating Procedures (SOPs) for cover system settlement monitoring, dike movement monitoring, and improvements to disposal practices for by-product material from in-situ leach facilities; and,
- ♦ improvements to content for the Annual Technical Evaluation Report.

### Public Meetings and Comments

Public comments are invited at any time prior to 5:00 pm on May 10, 2010. Written comments may be directed to the Division of Radiation Control, PO Box 144850, Salt Lake City, UT 84114-4850.

A public meeting will be held on May 4, 2010 from 7:00 to 9:00 pm at the Blanding Arts and Events Center located at 715 West 200 South in Blanding, Utah.

*For additional information, please contact Phil Goble at (801) 536-4044 or at [pgoble@utah.gov](mailto:pgoble@utah.gov).*

### ***Rocky Mountain Board***

## Rocky Mountain Board Meets in April in New Mexico

The Rocky Mountain Low-Level Radioactive Waste Board met on April 13, 2010. The meeting—which was held at the Bradbury Science Museum in Los Alamos, New Mexico—began with the Annual Meeting and was then immediately followed by the Regular Meeting.

### Annual Meeting

The following items were on the Annual Meeting agenda:

- ♦ election of officers, and
- ♦ consideration of fiscal year 2010-11 budget.

### Regular Meeting

The following items were on the Regular Meeting agenda:

- ♦ approval of minutes of the December 2009 Regular Meeting,
- ♦ status of Clean Harbors' regional facility,
- ♦ status of EnergySolutions' litigation,
- ♦ discussion of U.S. Department of Energy recovered sealed sources,
- ♦ public hearing on a request from International Isotopes for the Board to consider whether the depleted uranium that it will receive would be subject to the Board's jurisdiction,
- ♦ update on national developments,
- ♦ Executive Director's report including fiscal status/investment summary, permit fee

## States and Compacts *continued*

revenue for 2008 and 2009, expenditure/budget comparison, and status of volumes authorized for export and disposal in 2008 and 2009,

- ♦ consideration of an amendment to the Board's budget,
- ♦ consideration of investment of the Board's funds,
- ♦ briefing on the Los Alamos National Laboratory, and
- ♦ Executive Session to discuss legal issues.

*For additional information, please contact Leonard Slosky, Executive Director of the Board, at (303) 825-1912 or at [lslosky@rmlwb.us](mailto:lslosky@rmlwb.us).*

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### ***Rocky Mountain Compact/State of New Mexico***

## **International Isotopes Application Available**

On April 13, 2010, the U.S. Nuclear Regulatory Commission announced the availability of an application from International Isotopes Fluorine Products, Inc., for a license to construct and operate a depleted uranium deconversion facility in Lea County, New Mexico.

International Isotopes submitted the application on December 30, 2009. NRC docketed the application on February 23, 2010.

The proposed facility would process depleted uranium hexafluoride (DUF6) into commercially resalable fluoride products and depleted uranium oxide for disposal. The plant would be capable of deconverting up to 7.5 million pounds per year of

DUF6 provided by commercial enrichment facilities throughout the United States.

An opportunity to request a hearing on the application, as well as instructions for filing a request for hearing and petition to intervene, were published in the *Federal Register* on April 5 at <http://edocket.access.gpo.gov/2010/pdf/2010-7600.pdf>. The deadline for requesting a hearing is June 4, 2010.

*International Isotopes license application and information on the NRC review process can be found at <http://www.nrc.gov/materials/fuel-cycle-fac/ininfacility.html>.*

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### ***Southeast Compact***

## **Southeast Compact Schedules Annual Meeting**

The Southeast Compact Commission for Low-Level Radioactive Waste Management will hold its Annual Meeting in Alexandria, Virginia on June 3-4, 2010. The meeting will be held at the Embassy Suites Hotel in Old Town.

### **Policy and Planning Committee Meeting**

The Policy and Planning Committee will meet on June 3 at 12 pm. The Committee will immediately go into Executive Session to receive advice from Counsel. Upon reconvening, the Committee will review the Strategic Plan for Low-Level Radioactive Waste Management and consider other business as it may come before the Committee.

### **Administrative Committee Meeting**

The Administrative Committee will meet on June 3 at 4:30 pm to review a Proposed Budget

## States and Compacts *continued*

for fiscal year 2010-11 and to conduct other business as it may come before the Committee.

### Annual Meeting

The 94<sup>th</sup> business meeting of the Southeast Compact Commission will begin at 9:00 am on June 4. The following items are on the agenda:

- ◆ Executive Director's report,
- ◆ Treasurer's report,
- ◆ state reports and liaison reports,
- ◆ recommendations for revisions to the Strategic Plan,
- ◆ consideration of the proposed budget for fiscal year 2010-11, and
- ◆ election of officers.

All Committee and Commission meetings are open to the public.

*For additional information, please contact the Southeast Compact Commission at (919) 821-0500 or at [secc@secompact.org](mailto:secc@secompact.org).*

### ***Southeast Compact/State of Tennessee***

## Waste Bills Introduced in Tennessee

The following three bills have been introduced before the Tennessee General Assembly this session that may be of particular interest to members of the Low-Level Radioactive Waste Forum:

- ◆ SB 2801 and HB 2911 requires any permit issued by the Department of Environment and Conservation to specify the types of waste a facility is prohibited from receiving for disposal or processing and prohibits any person from knowingly accepting for disposal or processing certain nuclear or radioactive materials in any landfill;
- ◆ SB 2735 and HB 2826, as amended in its entirety, bans the blending of low-level radioactive waste in the State of Tennessee; and,
- ◆ SB 3221 and HB 3402, as amended in its entirety by its House sponsor, requires an applicant for a special waste permit to publish notice of the application in the local newspaper of general circulation in the county where the disposal is to take place and to provide a copy of the notice to the Tennessee Department of Environment and Conservation.

It is important to note that these bills have merely been introduced and have not been passed by the legislature.

In addition, some of the bills have undergone extensive amendments and some have failed to pass out of committee.

Persons interested in the above-legislation should therefore track it carefully in order to ensure that

## States and Compacts *continued*

they are up-to-date on the most recent amendments and actions for each individual draft bill.

### **SB 2801 and HB 2911**

The bills, as originally introduced, prohibit any regulation promulgated by the Solid Waste Disposal Control Board and any action taken by the Commissioner of Environment and Conservation from allowing the acceptance, processing, storage or disposal of radioactive materials in any landfill located in Tennessee. As introduced, the bills would apply to existing licensees and applicants, but would not apply to the following:

- (1) state and local government agencies;
- (2) educational institutions accredited by the Southern Association of Colleges and Schools;
- (3) licensees of the state licensing boards for the healing arts and those medical facilities possessing or utilizing radioactive materials for medical purposes when supervised by such licensees;
- (4) veterinarians possessing or utilizing radioactive materials in their veterinary practice;
- (5) persons possessing or utilizing radioactive materials for in vitro medical purposes; and,
- (6) persons possessing or utilizing only generally licensed quantities of radioactive materials.

The bill has been amended three times by its House sponsor. The amendments would, among other things, impose a mandatory minimum fee and alter the definition of the term “waste.”

The amended bill has been referred to the House State and Local Government Committee for summer study.

### **SB 2735 and HB 2826**

As originally drafted, SB 2735 and HB 2826 would have prohibited the acceptance and storage of radioactive waste at landfills or commercial facilities in the State of Tennessee.

The bill was amended in its entirety, however, to ban the blending of low-level radioactive waste. All prior language in the bill was stricken by the amendment.

In particular, the amended bill would prohibit waste processors from processing by-product material or any other radioactive substance or material—whether through blending, mixing, or any other method—unless the product of such processing were to have the same classification pursuant to 10 CFR § 61.55 as the highest classification that any of the individual radioactive substances and materials would have had if classified prior to processing.

The amended bill’s restrictions would not apply to processors that merely segregate wastes.

The bill, as amended, passed out of the Senate Environment Committee. It did not, however, pass out of the State Government Subcommittee of the House State and Local Government Committee.

### **SB 3221 and HB 3402**

The bills, as introduced, would prohibit the acceptance, processing, or disposal of radioactive waste material in any landfill located in Tennessee on or after July 1, 2010. The bills’ prohibition would not apply to:

- (1) the acceptance, processing or disposing of radioactive waste on property owned by the federal government pursuant to federal law;
- (2) waste with radioactivity below the background level when measured with the best available technology; and,
- (3) naturally occurring radioactive materials.

The House sponsor amended the draft bill in its entirety, striking all prior language.

As amended, the House bill would apply to applicants for a special waste permit to dispose of waste in a landfill that has been approved for

alternative disposal. In particular, such applicant would be required to publish notice of the application within ten (10) days in the local newspaper of general circulation in the county where the disposal is to take place. The applicant would also be required, within ten (10) days of such publication, to provide a copy of the notice to the Tennessee Department of Environment and Conservation and to the county or municipality where the landfill is located. The amended bill provides that the special waste permit would not be effective until ninety (90) days after such publication.

The amended bill passed out of the House State and Local Government Committee and is expected to be heard by the House Finance Committee shortly, subject to scheduling.

*For additional information, please go to <http://www.capitol.tn.gov>.*

### ***Southwestern Compact***

## **Southwestern Compact Holds 59<sup>th</sup> Commission Meeting**

On April 30, 2010, the Southwestern Low-Level Radioactive Waste Commission held its 59<sup>th</sup> meeting. The meeting, which was open to the public, was held at The Lodge at Deadwood in San Diego, California.

The following items were on the meeting agenda:

- ♦ activity and/or status reports from the Commission Chair, Executive Director, licensing agency, and party states,
- ♦ ratification of approved exportation petitions,
- ♦ review and approval of amendments to the Procedure Manual,
- ♦ status of the California registry data and public records disclosure issue,
- ♦ status of the incompatibility issue,
- ♦ discussion of the Energy Policy Act of 2005 and a proposed amendment,
- ♦ status of the lawsuits *EnergySolutions v. Northwest Compact* and *Southeast Compact Commission v. North Carolina*,
- ♦ status of NRC initiative regarding the blending of radioactive material, and,
- ♦ review and amend the approved 2009-10 budget.

The public was invited to comment on specific agenda items as the Commission considered them. The total public comment time on each agenda item was limited to 15 minutes. A 15-minute public comment period was also provided near the

end of the meeting to allow members of the public to bring before the Commission items relating to low-level radioactive waste that were not on the agenda.

The next meeting of Southwestern Compact Commission is scheduled for October 8, 2010. The meeting will be held in the Tahoe Room of the Hyatt Hotel in Sacramento, California.

*For additional information, please contact Kathy Davis, Executive Director of the Southwestern Compact Commission, at (916) 448-2390 or at [swllrwcc@swllrwcc.org](mailto:swllrwcc@swllrwcc.org).*

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### ***Texas Compact***

## **Texas Compact Rules Committee Meets re Waste Import & Export**

A working group of the Rules Committee of the Texas Low-Level Radioactive Waste Disposal Compact Commission met in Arlington, Texas on April 29, 2010. The purpose of the meeting was to discuss and draft responses to comments and proposed revisions to the preamble and text of rules governing the importation and exportation of low-level radioactive waste from the compact region.

During the course of the meeting, the committee did not receive additional comments on the proposed rule as the comment period had already concluded. Although meetings are open to the public, the committee reserves the right to meet in Executive Session to receive legal advice from counsel.

### **Background**

Prior to the proposal of a rule governing the import and export of low-level radioactive waste,

the Texas Compact Commission held two stakeholder meetings on August 7 and December 10, 2009. During the meetings, the commission discussed associated issues and solicited stakeholder views.

On February 12, 2010, the Texas Compact Commission published in the *Texas Register* (35 *Texas Register* 1028) a proposed new Subchapter B to be added to Chapter 675, Part 21, Title 31 of the Texas Administrative Code. The Subchapter would be captioned "Exportation and Importation of Waste" and would include the following:

- ◆ Section 675.21 to be captioned "Exportation of Waste to a Non-Party State for Disposal,"
- ◆ Section 675.22 to be captioned "Exportation of Waste to a Non-Party State for Management or Processing and Return to the Party States for Management or for Disposal and Return to the Party State for Management or Disposal in the Compact Facility," and
- ◆ Section 675.23 to be captioned "Importation of Waste from a Non-Compact Generator for Management or Disposal."

After publication of the proposed rules, the Texas Compact Commission held two public hearings. The first hearing was held in Austin, Texas on April 5, 2010. The second hearing was held in Andrews, Texas on April 6, 2010.

The comment period on the proposed rule closed on April 13, 2010.

*For additional information, please contact Margaret Henderson, Interim Executive Director of the Texas Compact Commission, at (512) 820-2930 or at [margaret.henderson@tllrwdcc.org](mailto:margaret.henderson@tllrwdcc.org). You may also go to the Texas Compact Commission's web site at <http://www.tllrwdcc.org>.*



## States and Compacts *continued*

### Proposed Rule

As drafted, the proposed rule is intended to set out the procedures and criteria by which petitions for export and import of low-level radioactive waste may be considered and granted or denied by the Texas Compact Commission and by which permits for export and import agreements may be considered.

Sections of the proposed rule set and assess fees associated with evaluating and processing export petitions and proposed import agreements.

In addition, sections of the proposed rule establish export permit fees and import agreement fees.

*The proposed rule, as published, may be accessed on the Texas Register site, page 60, by going to the following link: <http://www.sos.state.tx.us/texreg/pdf/curview/0212prop.pdf>.*

*For a detailed analysis of the content of the proposed rule, please see [LLW Notes](#), January/February 2010, pp. 15-19.*

### License Application Status

On January 14, 2009, by a vote of 2 to 0, Commissioners with the Texas Commission on Environmental Quality (TCEQ) denied hearing requests and approved an order on Waste Control Specialists LLC (WCS) Radioactive Material License application, No. R04100. (See *LLW Notes*, January/February 2009, pp. 1, 9-11.) Following the completion of condemnation proceedings and the acquisition of underlying mineral rights, TCEQ's Executive Director signed the final license on September 10, 2009. (See *LLW Notes*, September/October 2009, pp. 1, 12-13.) Facility construction may not commence, however, until certain pre-construction requirements have been fulfilled and the TCEQ Executive Director has granted written approval.

The license allows WCS to operate two separate facilities for the disposal of Class A, B and C low-

level radioactive waste—one being for the Texas Compact and the other being for federal waste as defined under the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments.

The WCS facility is currently authorized for the processing, storage and disposal of a broad range of hazardous, toxic, and certain types of radioactive waste. WCS is a subsidiary of Valhi, Inc.

*For additional information on WCS license application, please go to the TCEQ web page at [http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs\\_license\\_app.html](http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html) or contact the Radioactive Materials Division at (512) 239-6466.*

## Texas Compact to Meet in Andrews in May

The next meeting of the Texas Low-Level Radioactive Waste Disposal Compact Commission has been rescheduled for May 11, 2010. The meeting—which was previously planned for May 14—will be held in Andrews, Texas. The exact location will be posted in the *Texas Register* and on the Texas Compact Commission web site in advance of the meeting.

The Texas Compact Commission is asking that generators submit petitions and draft orders by April 21, 2010, in order to get such items placed on the meeting agenda. The meeting will be open to the public.

A copy of the meeting agenda will be posted to the Texas Compact Commission's web site at <http://www.tllrwdcc.org>.

*For additional information, please contact Margaret Henderson, Interim Executive Director*

## States and Compacts *continued*

of the Texas Compact Commission, at (512) 820-2930 or at [margaret.herderson@tllrwdcc.org](mailto:margaret.herderson@tllrwdcc.org).

### Compact Commission

On November 25, 2008, Texas Governor Rick Perry (R) announced appointments to the Commission. (See *LLW Notes*, November/December 2008, p. 9.) The Commission, which was created pursuant to Senate Bill 1206 in the 73<sup>rd</sup> Legislature, was established to provide for the management and disposal of low level radioactive waste while maintaining the priority of the health, safety and welfare of the citizens of Texas.

Michael Ford of Amarillo was named as Chairman and John White of Plano was named as Vice Chairman. Both terms are set to expire on November 25, 2014. In addition to Ford and White, Governor Perry appointed four other members to the Texas Commission including Richard Dolgener, Bob Gregory, Kenneth Peddicord, and Robert Wilson. Uldis Vanags and Stephen Wark have been appointed to represent the State of Vermont on the Compact Commission.

The Commission held its first meeting on February 13, 2009, and has held various meetings since then. (See *LLW Notes*, January/February 2009, pp. 8-9 and March/April 2009, pp. 11-13.)

### ***Texas Compact/State of Texas***

## **TCEQ Announces Documentation Review re Submissions & Pre-Construction License Conditions**

On April 2, 2010, the Texas Commission on Environmental Quality (TCEQ) announced that Waste Control Specialists LLC (WCS) has submitted technical reports regarding pre-construction license conditions and other conditions specified in Radioactive Material License No. R04100. According to the agency, approximately 52 work plans were submitted including drawings, maps, and other data. TCEQ staff and consultant reviews of the various submissions may be viewed at the following web page: [http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs\\_license\\_app.html](http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html).

In addition, TCEQ announced that staff has made some minor edits to the Rate Application Package - Excel Spreadsheet. The edits include changes to date formats and cell pointing. The updated Excel Spreadsheet can be found on TCEQ's website at <http://www.tceq.state.tx.us/permitting/radmat/licensing/rates>.

### **Background: License Application Status**

On January 14, 2009, by a vote of 2 to 0, TCEQ Commissioners denied hearing requests and approved an order on WCS' radioactive material license application. (See *LLW Notes*, January/February 2009, pp. 1, 9-11.) Following the completion of condemnation proceedings and the acquisition of underlying mineral rights, TCEQ's Executive Director signed the final license on September 10, 2009. (See *LLW Notes*, September/October 2009, pp. 1, 12-13.) Facility construction may not commence, however, until certain pre-construction requirements have been fulfilled and the TCEQ Executive Director has granted written approval.

## States and Compacts *continued*

The license allows WCS to operate two separate facilities for the disposal of Class A, B and C low-level radioactive waste—one being for the Texas Compact and the other being for federal waste as defined under the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments.

The WCS facility is currently authorized for the processing, storage and disposal of a broad range of hazardous, toxic, and certain types of radioactive waste. WCS is a subsidiary of Valhi, Inc.

*For additional information on WCS license application, please go to the TCEQ web page at [http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs\\_license\\_app.html](http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html) or contact the Radioactive Materials Division at (512) 239-6466.*

### ***Texas Compact/State of Vermont***

## **Enhanced Oversight of Vermont Yankee Announced**

On April 6, 2010, the U.S. Nuclear Regulatory Commission announced that the agency will conduct additional inspections at the Vermont Yankee nuclear power plant, operated by Entergy Nuclear and located in Vernon, Vermont. Through enhanced specialized inspections, NRC will oversee Entergy's efforts to address groundwater contamination at the site and to review and assess the company's response to an NRC Demand for Information (DFI) issued in early March.

The action follows notification in January that Entergy had received positive sample results for tritium from a groundwater well at Vermont Yankee. NRC has been closely monitoring Entergy's actions to identify, mitigate, characterize and remediate the source of the

contamination. The current tritium contamination does not pose any health or safety concern for members of the public or plant workers.

NRC issued the DFI on March 1 requiring Entergy to confirm that information provided to the agency that is material to NRC decisions is accurate and the impact of recent personnel changes is assessed with regard to regulatory program performance and safety culture. This action stemmed from an Entergy decision to take action against certain plant employees as a result of the company's independent internal investigation into alleged contradictory or misleading information provided to the State of Vermont and then not corrected. Entergy responded to the DFI on March 31 and agreed to conduct additional communications and outreach activities with stakeholders.

Under NRC's Reactor Oversight Process, a plant's performance determines the level of inspection conducted at the site. To provide additional oversight, the agency can decide to deviate from the process and conduct further inspections and so forth when warranted by the given situation.

### ***State of New York***

## **Review Concluded re West Valley Phase I Decommissioning Plan**

The U.S. Nuclear Regulatory Commission has concluded its technical review of the U.S. Department of Energy's Phase 1 decommissioning plan for the West Valley Demonstration Project (WVDP) in western New York. NRC did not identify any objections and concluded that the plan will satisfy the decommissioning criteria for unrestricted use spelled out in the agency's regulations.

The West Valley site is located on 3,300 acres of land known as the Western New York Nuclear Service Center. The WVDP site, which is a 200-acre portion of the center, contains a former commercial nuclear fuel reprocessing facility that operated from 1966 to 1972 and produced approximately 600,000 gallons of liquid high-level radioactive waste. The WVDP also contains contaminated structures and a radioactive waste disposal area. The site also has a waste tank farm, waste lagoons, and aboveground radioactive waste storage areas, with soil and groundwater contamination near these facilities.

DOE's phase I decommissioning plan envisions remediation activities within the WVDP site boundary, including removal of the main plant process building, the vitrification facility, source area of the North Plateau groundwater plume, wastewater treatment facility lagoons, and ancillary buildings, foundations, slabs and pads. Phase 1 activities would also include additional characterization of site contamination and studies to support the technical approach to complete site decommissioning.

Through the West Valley Demonstration Project Act of 1980, Congress gave NRC authority to review and consult with DOE informally on certain matters related to the project. In a

subsequent memorandum of understanding, the two agencies agreed that NRC would review and comment on DOE's decommissioning plan, and that DOE would review and consider NRC's comments before initiating Phase 1 decommissioning activities.

Phase 2 decommissioning of the remainder of the WVDP and center, or its long-term management, will be determined in the future and are not part of this decommissioning plan.

*NRC's Technical Evaluation Report on the Phase I decommissioning plan, as well as NRC's letter to DOE transmitting the report, are available in the NRC's Agencywide Documents Access and Management Systems (ADAMS) under accession number ML100360030. ADAMS is accessible via the agency's web site at <http://www.nrc.gov/reading-rm/adams.html>.*

### ***Pryor v. Andrews County***

## **Court Upholds WCS LLRW Disposal Bond**

In mid-April 2010, the Eighth Circuit Court of Appeals in El Paso, Texas upheld the results of a bond election for the planned Waste Control Specialists LLC facility in Andrews County, Texas.

In so ruling, the court held that no illegal votes were counted in the Andrews County bond election held on May 9, 2009.

### **The Bond**

WCS requested that the bond issue be placed on the May 2009 ballot for development of the planned low-level radioactive waste disposal facility. As proposed, the county would take out a \$75 million bond based on its credit rating and WCS would then repay it.

According to WCS officials, stock from WCS, its parent company (Valhi Inc.), and a year's worth of principle and interest would be put into an account for Andrews County as collateral while the bond is repaid in order to ensure that local taxpayers do not end up with the burden of the loan.

An opposition group called No Bonds for Billionaires opposes granting the bond for WCS' benefit. The informal group, which was started by sisters Melodye and Peggy Pryor, campaigned against passage of the bond.

### **Bond Election**

On May 9, 2009, voters in Andrews County approved the bond for the planned low-level radioactive waste disposal facility being developed by WCS. (See *LLW Notes*, May/June 2009, pp. 17-18.) The bond, which passed by a

vote of 642 to 639, will allow WCS to borrow money from the county, thereby taking advantage of its credit rating.

Shortly thereafter, however, opponents filed a formal request for a recount. Under Texas statute, a recount may be granted if 25 registered voters sign a petition within five days of the election and the item on the ballot wins by less than 10 percent of the votes.

County Judge Richard Dolgener verified that all of the signatures are from registered voters before he accepted the petition. Nonetheless, upon recount, the votes were the same.

### **The Lawsuit**

After a recount on the bond votes, the Pryor sisters filed a lawsuit arguing that there were several irregularities among the votes cast. The sisters contend that the results of the election should therefore be invalidated.

On October 6, 2009, a state district court judge issued a decision dismissing the lawsuit. (See *LLW Notes*, September/October 2009, pp. 14-15.)

The plaintiff's appealed that decision, focusing mainly on voter registration cards from the 1970's. According to the plaintiffs, citizens were on the registrar's record as legal voters even through they had never signed their voter registration cards. As a result, the plaintiffs argue that these ballots should not have been counted.

Andrews County District Attorney John Pool noted, however, that each voter was required to show their identification and to sign in when they voted. Accordingly, he argued that the votes were legally counted.

Chief Justice David Wellington Chew wrote in his opinion that once a registrar approves a citizen's application to vote, it remains valid until cancelled by the registrar. "An omission or error

in a voter's registration application does not automatically invalidate that registration" unless the registrar rules the registration should be canceled, wrote Chew.

### Next Steps

WCS was not named in the lawsuit, but has been waiting for resolution of the issue to begin construction on its site.

In the event that an additional appeal is filed, Andrews County has filed a bond validation lawsuit with which it is proceeding.

*For information on WCS license application, please go to the TCEQ web page at [http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs\\_license\\_app.html](http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html) or contact the Radioactive Materials Division at (512) 239-6466. You may also go to the WCS web site at <http://www.wcstexas.com> or contact Chuck McDonald of WCS at (512) 708-8655.*

## ***Nuclear Energy Institute v. U.S. Department of Energy***

### Utilities Sue DOE Over Nuclear Waste Fund

On April 5, 2010, the Nuclear Energy Institute (NEI) and sixteen utilities filed suit against the U.S. Department of Energy (DOE) over the Nuclear Waste Fund in the U.S. Court of Appeals for the District of Columbia Circuit.

#### **The Lawsuit**

The lawsuit arises out of NEI's request for DOE to promptly perform an annual review of the Nuclear Waste Fund fee to account for the present status and cost of the nuclear waste program and to immediately suspend collection of fee payments to the Nuclear Waste Fund, as well as the department's response thereto.

Specifically, the petitioners are asking that the court grant the following relief:

- ◆ declare that the DOE decision and action, or failure to act, to not account for the termination of the Yucca Mountain repository program in the annual review of the Nuclear Waste Fund fee is arbitrary and capricious and contrary to law;
- ◆ declare that the DOE decision and action, or failure to act, to refuse to suspend collection of the Nuclear Waste Fund fee is arbitrary and capricious and contrary to applicable law;
- ◆ direct DOE to immediately suspend collection of the Nuclear Waste Fund fee pending DOE's compliance with the annual review provisions of Section 302 of the Nuclear Waste Policy Act, 42 U.S.C. §10222; and,
- ◆ grant such other relief as the court deems just and proper.

## Courts *continued*

In addition to NEI, the following utilities are listed as petitioners in the action:

- ♦ Florida Power & Light Company;
- ♦ Nextera Energy Seabrook, LLC;
- ♦ Nextera Energy Duane Arnold, LLC;
- ♦ Nextera Energy Point Beach, LLC;
- ♦ Omaha Public Power District;
- ♦ PSEG Nuclear LLC;
- ♦ Indiana Michigan Power Company;
- ♦ Energy Northwest;
- ♦ PPL Susquehanna, LLC;
- ♦ Northern States Power Company D/B/A Xcel Energy;
- ♦ the Detroit Edison Company;
- ♦ Wolf Creek Nuclear Operating Corporation;
- ♦ Kansas Gas and Electric Company D/B/A Westar Energy;
- ♦ Kansas City Power & Light Company;
- ♦ Kansas Electric Power Cooperative, Inc.; and,
- ♦ Nebraska Public Power District.

Both DOE and the United States of America are listed as respondents to the action.

### **Background**

By letter dated July 8, 2009, the Nuclear Energy Institute requested that DOE (1) perform an annual review of the Nuclear Waste Fund fee to account for the present status and cost of the

nuclear waste program, and (2) immediately suspend collection of fee payments to the Nuclear Waste Fund.

DOE responded by letter dated October 8, 2009. The letter states that the current balance in the Nuclear Waste Fund is approximately \$23 billion.

After recounting the department's responsibilities and duties pursuant to the Nuclear Waste Act of 1982, as amended, the letter states as follows:

The Department of Energy has consistently determined that the current fee of 1/10-cent per kilowatt hour is adequate to cover the total system life-cycle costs of disposing of the commercial spent nuclear fuel and high-level radioactive waste, using the assumptions in place at the time; and, in accordance with the Act, the fee will continue to be reviewed annually. On July 27, 2009, in response to Senate Energy and Water Appropriations language in H.R. 3183 related to suspension of collection of the fee, the Administration issued a Statement of Administration Policy stating that all of the fees collected in the Nuclear Waste Fund are essential to meet the obligations of the Federal Government for managing and ultimately disposing of spent nuclear fuel and high-level radioactive waste.

The letter concludes by stating that the DOE will take the nuclear industry's views into consideration "as the policy process unfolds regarding how the Department should meet its contractual obligations to the nuclear industry for the management of spent nuclear fuel."

### ***Advisory Committee on Reactor Safeguards (ACRS)***

## **ACRS Holds April Meeting**

The U.S. Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS) met on April 8-10, 2010 at the agency's headquarters in Rockville, Maryland.

The April meeting agenda included, among other things, a review of interim staff guidance addressing post-combined license commitments for new reactors, a safety evaluation report with open items associated with the review of the U.S. Evolutionary Power Reactor design certification application, and the applicability of General Electric's methods to include a new fuel design (GNF2).

The ACRS is a group of experienced technical experts that advises the Commission, independently from NRC staff, on safety issues related to the licensing and operation of nuclear power plants and in areas of health physics and radiation protection.

*Complete agendas for ACRS meetings can be found on the NRC's web site at <http://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/2010/>. For additional information on ACRS meetings, please contact Antonio Dias at (301) 415-6805.*

### ***National Academy of Sciences***

## **NAS Considers Study re Cancer Risks Near Nuclear Facilities**

The National Academy of Sciences (NAS) recently received a request from the U.S. Nuclear Regulatory Commission to perform a state-of-the-art study regarding cancer risks for populations surrounding nuclear power facilities. In response, the Nuclear and Radiation Studies Board of the NAS invited NRC officials to participate in the board's public meeting on April 26 to discuss the request. NRC and NAS plan to finalize administrative details through the spring so that the study can begin this summer.

As proposed, NAS would update a 1990 U.S. National Institutes of Health/National Cancer Institute report titled, "Cancer in Populations Living Near Nuclear Facilities." The report showed no increased risk of death from cancer for people living in the 107 counties containing or closely adjacent to 62 nuclear facilities, including all of the nuclear power reactors operational before 1982.

NRC uses the report as a primary resource when communicating with the public about cancer mortality risk in counties that contain or are adjacent to nuclear power facilities. In the new study, NRC has asked NAS to evaluate cancer diagnosis rates, as well as to explore how to divide the study areas around the facilities into geographical units smaller than the counties used in the original report.

NAS is a non-governmental organization chartered by the U.S. Congress to advise the nation on issues of science, technology and medicine. Through the National Research Council and Institute of Medicine, it carries out studies independently of the government using



## Federal Agencies and Committees *continued*

processes designed to promote transparency, objectivity, and technical rigor.

*The agenda for the April 26 NAS meeting can be found at [www.nationalacademies.org/nrsb](http://www.nationalacademies.org/nrsb). The 1990 NIH/NCI report can be found at <http://www.cancer.gov/cancertopics/factsheet/Risk/nuclear-facilities>.*

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*(Continued from page 1)*

waste, rather than its storage onsite, since Class A waste can be disposed of at a currently operating disposal facility,” states NRC.

In the Commission paper, NRC staff examines the blending or mixing of LLRW with higher concentrations of radionuclides with LLRW with lower concentrations of radionuclides to form a final homogeneous mixture. Staff evaluates the agency’s previous positions and policies on blending in light of changing circumstances. Staff also examines the assumption that blending is *a priori* undesirable in light of risk-informed, performance-based regulation that focuses on the safety hazard of blending and the blended materials. Finally, staff considers other alternatives for a blending position, including several that would pose additional constraints.

### Discussion

In the discussion paper, NRC staff evaluates a number of different options for addressing blending in the agency’s LLRW regulatory framework. According to staff, the selected options are designed to address policy, technical (safety) and regulatory issues associated with the potential blending of low-level radioactive waste.

The policy issues evaluated by staff include

- ◆ NRC’s past statements on blending to reduce waste class,
- ◆ facilitation of waste disposal through blending,

- ◆ the impact on the LLRW management program in the United States,
- ◆ impacts of blending on disposal capacity,
- ◆ impacts on volume reduction,
- ◆ unintended consequences of changing the Commission’s blending position, and
- ◆ blending of greater-than-Class C low-level radioactive waste.

The safety issues evaluated by staff include

- ◆ protection of an offsite member of the public,
- ◆ protection of an inadvertent intruder into a disposal facility after the institutional control period ends,
- ◆ waste characterization and homogeneity, and
- ◆ stability of the waste form.

The regulatory issues evaluated by staff include

- ◆ the method for issuing an NRC position on blending,
- ◆ National Environmental Compliance Act (NEPA) compliance, and
- ◆ the applicability of NRC’s guidance to waste processors.

### Options

Staff evaluated four options for regulatory actions that NRC could undertake regarding the blending of different types and classes of LLRW.

#### ***Option One: Maintain Current NRC Positions on Blending of Homogeneous Waste Streams (Status Quo)***

Under this option, the Commission would not change its existing positions on the use of blending as discussed in the Branch Technical Position on Concentration Averaging and Encapsulation (CA BTP). This guidance

## Federal Agencies and Committees *continued*

recommends constraints on blending through the use of the “factor of 10” provision, which limits mixing of homogeneous waste streams to batches of waste that are within a factor of 10 of the average concentration after mixing. Nonetheless, the current staff position acknowledges that blending is appropriate without the constraints of the CA BTP if it results in operational efficiencies or worker dose reductions.

Clarifications on blending, as contained in agency responses to three industry letters over the course of the last year, include: (a) blending is neither prohibited nor explicitly addressed in NRC regulations; (b) while the staff has stated that wastes should not be mixed *solely* to lower the waste classification, NRC guidance acknowledges that blending, including some blending that may lower waste classification, may be appropriate under certain circumstances; (c) waste classification is related to the safety of the disposed waste, and NRC regulations do not require waste to be classified prior to its shipment for disposal; and, (d) NRC’s blending guidance applies to all NRC licensees, including waste processors. (See *LLW Notes*, September/October 2009, pp. 29-30, and November/December 2009, pp. 13-17.)

Implementation of this option would involve updating the CA BTP and issuing a Regulatory Issue Summary that documents staff positions in recent letters to industry. For the CA BTP, staff would simply clarify the terms and better describe the bases for its positions.

This option is advantageous in that, among other things, licensees and Agreement States are familiar with the current averaging provisions in the CA BTP and use them extensively. In addition, issuing guidance uses fewer resources to update agency policy. One disadvantage is that this option could lead to inconsistent treatment of LLRW that could vary according to point of generation, processing and/or disposal because guidance lacks the potential compatibility

requirements of a rule. Another disadvantage is that existing positions are not risk-informed and performance-based. Finally, there is a potential safety concern for an inadvertent intruder involving disposal of large-scale blended waste that would need to be evaluated on a case-by-case basis.

### ***Option Two: Revise Blending Positions to be Risk-Informed and Performance-Based***

Under this option, the agency’s position on blending of waste streams would become risk-informed, performance-based. The principal consideration would be whether a final blended waste form could be safely disposed. The following changes and clarifications, among others, would be made to the existing blending positions: (a) clarify that a site-specific intruder analysis must be performed to determine whether an intruder could be protected, or the conditions necessary for such protection; (b) develop criteria defining acceptable homogeneity and sampling considerations; and, (c) eliminate the “factor of 10 rule” for mixing of wastes that can be blended into a homogeneous mixture because the concentration of the final mixture will be relatively uniform in the context of a site-specific intruder scenario.

This option—which would be consistent with the Commission’s policy on risk-informed, performance-based regulation—would be implemented through a combination of rulemaking and issuance of guidance. The requirement for a site-specific intruder analysis would be mandated in the rulemaking for unique waste streams.

Two documents would be updated as part of this option: the Commission’s Policy Statement on Low-Level Waste Volume Reduction (Policy Statement) and the CA BTP. The Policy Statement, which was published in 1981, encourages licensees to take steps to reduce the

## Federal Agencies and Committees *continued*

amount of waste generated and to reduce its volume once generated. Although the Policy Statement does not address blending directly, some stakeholders have argued that blending is contrary to the policy and to the goal of achieving reduced waste volumes. The staff believes, however, that the Policy Statement could be updated to recognize the progress that has been achieved to date in terms of volume reduction, and to acknowledge that other factors may be used by licensees in determining how best to manage their LLRW. In terms of the CA BTP, risk-informed, performance-based blending guidance would be specified and existing guidance that is not consistent with such approaches would be removed.

In addition, staff would issue interim guidance to Agreement States on how to evaluate proposed disposal of large quantities of blended waste until the rulemaking is completed. The guidance would recommend a case-by-case evaluation of blended waste for each site that plans to accept this type of waste for disposal. Various factors would need to be evaluated by the appropriate regulator including intruder protection, the need for mitigative measures, and homogeneity. The staff's preliminary analysis indicates that current practices at existing disposal facilities may safely accommodate an increase in the amount of disposed waste at or just below the Class A limits.

This option includes a variety of advantages including: (a) the use of risk-informed, performance-based criteria that would be consistent with NRC's overall policy of risk-informed regulation and (b) use of fewer staff resources than options three and four by piggybacking onto a rulemaking that is already underway. Among the disadvantages are: (a) existing licensee and applicable Agreement State regulations and guidance may have to be changed and (b) some stakeholders may perceive this new blending policy as a reduction in protection of public health and safety.

### ***Option Three: Revise Agency Blending Policy to Further Constrain Blending***

Under this option, the Commission would develop a policy and promulgate a rule that would require that the in-process concentrations of waste determine waste classification, rather than following the current requirement that the waste be classified when it is ready for disposal.

The rulemaking would initially propose that radioactive material that has been blended as a result of stabilization, mixing, treatment, or for any other reason, would be subject to the disposal regulations it would have been subject to prior to blending. This rule would require classification at points prior to the preparation of waste for disposal. A Regulatory Issue Summary would be published soon after the Commission decision to inform licensees that a revised blending policy was under development.

Staff identified the following advantages to this option: (a) it would eliminate some stakeholder concerns over blending to reduce waste classification; (b) it would eliminate any ambiguity about blending for purposes of lowering the waste classification, as any blending under this option could not lower the waste classification; and, (c) it would provide for more measures to isolate and contain waste than the current requirements in 10 CFR Part 61, since the classification of some wastes under this approach would be higher than current practice. Among the identified disadvantages are: (a) it may result in larger occupational exposures because of the need to sample and characterize waste more frequently, (b) it would not be risk-informed and performance-based, since classification of waste would be based on the as-generated waste, not of the concentrations of waste at the time of disposal; and, (c) it would require more LLRW storage by creating more Class B and C waste.

## Federal Agencies and Committees *continued*

### ***Option Four: Prohibit Large Scale Blending at Off-Site Processor***

NRC could prohibit large-scale blending that lowers the waste classification at a waste processor because it is tantamount to intentional mixing to lower the waste classification. This option would be implemented through a rulemaking. A Regulatory Issue Summary would be issued after a Commission decision, but before the rulemaking was completed, to notify licensees of the planned change. An important part of the rulemaking would be differentiating between the routine blending that currently occurs at waste processors, and large-scale blending to lower the waste classification, such as has been proposed for ion-exchange resins from nuclear power plants.

Among the advantages identified for this option are (a) it would address concerns raised by stakeholders opposed to blending in general and potentially increase public confidence that their health and safety are being protected and (b) it would continue to allow for individual waste generators to blend waste as part of normal operations. Disadvantages to this option as identified by staff include: (a) it is not a risk-informed, performance-based position; (b) there is no clear health and safety basis for discouraging this type of blending; and, (c) generators could still produce resin waste similar to blended waste by removing resins from service before Class B concentrations are reached, which would increase LLRW volumes by requiring more resin to accomplish the same task.

### **Stakeholder Input and Agreement State Views**

Stakeholder input was solicited during the development of the Commission paper by various means including the issuance of a *Federal Register* notice requesting public comments on blending on November 30, 2009; staff meetings with three companies that had written to the agency expressing their views on blending; and, a one-day public meeting in Rockville, Maryland

on January 14, 2010. (See *LLW Notes*, November/December 2009, pp. 1, 24-26.)

Stakeholders have expressed a wide variety of views on blending, leading to significant controversy regarding the development of an appropriate policy on the issue. Some of the issues raised by stakeholders include potential safety impacts of large-scale blending, the impact of blending on LLRW volume reduction, how NRC's blending position should be documented (i.e., guidance vs. rulemaking), and potential unintended consequences of a new NRC blending position.

In developing the paper, staff also consulted with Agreement States that are significantly involved in the regulation of waste processing and disposal facilities including Washington, South Carolina, Texas, Utah, Tennessee, and Pennsylvania. According to NRC staff, "States were generally satisfied with the issues addressed and the options presented for Commission consideration." The paper, nonetheless, does note some concerns expressed by state officials including that

- ♦ joining the site-specific intruder assessment requirement for blending with the unique waste streams rulemaking would delay that effort;
- ♦ assuring homogeneity is more important for large-scale blended waste than for smaller amounts from individual generators because it will be closer to the limits for Class A waste; and,
- ♦ flexibility should be permitted in implementing any new regulations on blending.

Texas, in particular, believes that any NRC regulation on blending should allow their existing regulation that addresses waste dilution to remain in place, including for any potential out-of-state generators. In the paper, staff states that they "will have further discussions with Texas on this issue."

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Utah, among other comments, is opposed to blending if the intent is to alter the waste classification for the purposes of disposal site access. For allowable blending, the state believes that requirements should be contained in performance-based regulations addressing sampling and radiological characterization standards.

The Commonwealth of Pennsylvania would not oppose intentional blending of LLRW if it results in a change of classification of waste to a lower classification and only for access to a LLRW disposal facility and not for release to the environment. The Commonwealth recommends that NRC clearly define blending (and prohibit dilution), that the original generator of blended waste should be maintained in records, and that an evaluation of the potential benefits and risks associated with blending should be conducted.

At the January 2010 public meeting on blending, a Tennessee official had no technical opinion on blending, but noted that if large-scale blending is determined to be commercially viable, the state's responsibility is to license a blending operation if protection of the public health and safety and the environment are demonstrated.

### **Conclusion**

NRC staff believes that improvements could be made to the current LLRW blending guidance if it were risk-informed and performance-based, consistent with the agency's overall policy for regulation. Staff states that this change could be accomplished in part through revisions to two guidance documents: CA BTP and the Policy Statement.

Staff also recommends clarifying that large quantities of blended waste are considered a unique waste stream and are included in NRC's ongoing rulemaking on this topic. These changes would ensure continued safety, according to staff, by requiring that disposal of large-scale blended waste is subjected to a site-specific intruder

analysis as part of the overall performance assessment of a disposal facility.

In addition, staff believes that these changes would improve NRC openness and effectiveness by clarifying the agency's LLRW blending policy and its bases.

*For additional information, please contact James Kennedy of the U.S. Nuclear Regulatory Commission at (301) 415-6668 or at [James.Kennedy@nrc.gov](mailto:James.Kennedy@nrc.gov).*

## **NRC Welcomes Three New Commissioners**

On March 19, 2010, the U.S. Senate confirmed the nominations of three new Commissioners for the U.S. Nuclear Regulatory Commission including George Apostolakis, Bill Magwood and Bill Ostendorff. The nominees were confirmed by unanimous consent, rather than a roll call vote.

On April 1, 2010, NRC Chairman Gregory Jaczko administered the oath of office to Magwood and Ostendorff in a ceremony at NRC headquarters. Apostolakis was sworn in at a separate ceremony on April 23, 2010.

### **New Commissioners**

With the swearing in of these new Commissioners, NRC now has a full complement of five Commissioners for the first time since 2007.

**George Apostolakis** Apostolakis is the Korea Electric Power Company Professor of Nuclear Science and Engineering and a Professor of Engineering Systems at the Massachusetts Institute of Technology. He received his Ph.D. in Engineering Science and Applied Mathematics from the California Institute of Technology in 1973. He is a Fellow of the American Nuclear

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Society and of the Society for Risk Analysis. He received the Tommy Thompson Award for his contributions to improvement of reactor safety in 1999 and the Arthur Holly Compton Award in Education in 2005 from the American Nuclear Society.

Apostolakis was elected to the National Academy of Engineering in 2007. He is the Editor-in-Chief of the International Journal Reliability Engineering and System Safety and the founder of the International Conferences on Probabilistic Safety Assessment and Management (PSAM). He is a Member and former Chairman of the statutory Advisory Committee on Reactor Safeguards of the U.S. Nuclear Regulatory Commission.

**Bill Magwood** Magwood was the longest-serving head of the United States' civilian nuclear technology program, serving two Presidents and five Secretaries of Energy from May 1998 until he stepped down on May 24, 2005. He then founded the firm Advanced Energy Strategies to provide strategic advice to domestic and international clients. As the Director of Nuclear Energy with the U.S. Department of Energy, Magwood was the Senior Nuclear Technology Official in the United States Government and the Senior Nuclear Technology Policy Advisor to the Secretary of Energy.

Prior to his appointment as Director of Nuclear Energy, Magwood served as the Associate Director for Technology and Program Planning in the Office of Nuclear Energy for four years. From 1984 to 1994, he managed electric utility research and nuclear policy programs at the Edison Electric Institute in Washington, DC. In addition, he was a scientist at Westinghouse Electric Corporation in Pittsburgh, Pennsylvania—where he analyzed radiological and hazardous waste disposal, treatment, and handling systems.

**Bill Ostendorff** Ostendorff was nominated by the President to be the National Nuclear Security Administration's (NNSA) Principal Deputy Administrator on February 26, 2007. He

was confirmed by the U.S. Senate on March 29, 2007 and joined the agency on April 9, 2007. He previously served as Counsel and Staff Director for the Strategic Forces Subcommittee of the House Armed Services Committee. This subcommittee has oversight responsibilities for the Department of Energy's Atomic Energy Defense Activities, as well as the Department of Defense's space, missile defense and intelligence programs.

In 2002, Ostendorff retired from the Navy and joined the Institute for Defense Analyses. From 1999 to 2002, he served as Director of the Division of Mathematics and Science at the United States Naval Academy. From 1998 to 1999, he commanded Submarine Squadron Six in Norfolk, Virginia. From 1996 to 1998, he was Director of the Submarine Force Atlantic Prospective Commanding Officer School. He served on six submarines, including command of the USS NORFOLK (SSN 714) from 1992 to 1995.

### Current Commissioners

Prior to the swearing in of the new Commissioners, the Commission had been operating with only three members—including Chairman Gregory Jaczko, Commissioner Dale Klein, and Commissioner Kristine Svinicki—and two vacancies. Commissioner Dale Klein recently stepped down from his post.

**Chairman Gregory Jaczko** Jaczko was originally sworn in as a Commissioner on January 21, 2005. On May 13, 2009, President Barack Obama designated Jaczko as Chairman. His term runs through June 13, 2013.

Immediately prior to assuming the post of Commissioner, Jaczko served as Appropriations Director for U.S. Senator Harry Reid and also served as the Senator's Science Policy Advisor. He began his Washington, DC career as a Congressional Science Fellow in the office of U.S. Representative Edward Markey. In addition,

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he has been an Adjunct Professor at Georgetown University teaching Science and Policy.

**Commissioner Dale Klein** President George W. Bush originally appointed Klein as the NRC's Chairman. Klein served in that role from July 1, 2006 through May 13, 2009. His current term as a Commissioner was set to expire on June 30, 2011.

Before joining the NRC, Klein served as the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs. In this position, he served as the Principal Staff Assistant and Advisor to the Secretary of Defense, Deputy Secretary of Defense, and the Under Secretary of Defense for Acquisition and Technology for all policy and planning matters related to nuclear weapons and nuclear, chemical, and biological defense.

**Commissioner Kristine Svinicki** Svinicki was sworn in as a Commissioner on March 28, 2008. Her term ends on June 30, 2012.

Svinicki has a distinguished career as a Nuclear Engineer and Policy Advisor, working at the state and federal levels of government, and in both the legislative and executive branches. Before joining the NRC, she spent over a decade as a Staff Member in the U.S. Senate advancing a wide range of policies and initiatives related to national security, science and technology, and energy and the environment. She also served as a Professional Staff Member on the Senate Armed Services Committee. Previously, she worked as a Nuclear Engineer at the U.S. Department of Energy.

*For additional information, please go to [www.nrc.gov](http://www.nrc.gov).*

## 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

- ♦ held two public meetings to discuss the agency's environmental review of the Columbia Generating Station license renewal application;
- ♦ conducted two public meetings to provide interested parties with an opportunity to comment on environmental issues that the agency should consider in reviewing the license application for a 20-year renewal of the operating licenses for Diablo Canyon Units 1 and 2;
- ♦ announced that the agency is seeking public comments on its preliminary conclusion that there are no environmental impacts that would preclude renewal of the operating license for the Cooper Nuclear Station; and,
- ♦ put out a notice that the agency is seeking public comments on its preliminary conclusion that there are no environmental impacts that would preclude renewal of the operating license for the Kewaunee Power Station.

### Columbia Generating Station

On April 6, 2010, NRC staff held two public meetings in Richland, Washington to discuss the agency's environmental review of the Columbia Generating Station license renewal application. Both sessions followed the same format and covered the same material. Staff briefly described the agency's process for reviewing license renewal applications. Members of the audience then had the opportunity to comment on

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environmental issues that they feel the agency should consider in reviewing the application.

The Columbia Generating Station is a boiling-water reactor. The plant is 12 miles northwest of Richland, Washington. The licensee, Energy Northwest, submitted the license renewal application on January 19, 2010. NRC subsequently determined that the application had enough information to be formally “docketed” and the agency announced an opportunity to request a hearing on the application on March 8, 2010. The current operating license expires on December 20, 2023.

*A copy of the Columbia Generating Station license renewal application is available on NRC’s web site at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/columbia.html>.*

### **Diablo Canyon Nuclear Plant**

On March 3, 2010, NRC staff conducted two public meetings to provide interested parties with an opportunity to comment on environmental issues that the agency should consider in reviewing the license application for a 20-year renewal of the operating licenses for Diablo Canyon Units 1 and 2. Both sessions began with an NRC presentation on the environmental scoping process that is part of the license renewal review. Following the presentations, audience members were provided an opportunity to offer comments on environmental issues that the agency should consider in its review of the application.

The Diablo Canyon plant is located in Avila Beach—12 miles from San Luis Obispo, California. The licensee, Pacific Gas & Electric Company, submitted the renewal application on November 23, 2009 for Units 1 and 2. The current operating licenses expire on November 2, 2024, and August 26, 2025, respectively.

*The Diablo Canyon license renewal application is available on the NRC web site at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.diablo-canyon.html>.*

### **Cooper Nuclear Station**

On February 18, 2010, NRC announced that the agency is seeking public comments on its preliminary conclusion that there are no environmental impacts that would preclude renewal of the operating license for the Cooper Nuclear Station. NRC reviewed the environmental report submitted as part of the application and performed an on-site review. Staff also considered comments made during the environmental scoping process. The draft supplemental environmental impact statement (EIS) is available for public comment until May 5, 2010, and will be the subject of two public meetings.

The Cooper plant—which is located 23 miles south of Nebraska City, Nebraska—has one boiling water reactor. The current operating license expires on January 18, 2014. Cooper’s owner, the Nebraska Public Power District, submitted the renewal application on September 30, 2008.

*The Cooper draft supplemental EIS and other related documents are available on ADAMS using accession number ML100331921 at <http://www.nrc.gov/reading-rm/adams/web-based.html>.*

### **Kewaunee Power Station**

On February 1, 2010, NRC announced that the agency is seeking public comments on its preliminary conclusion that there are no environmental impacts that would preclude renewal of the operating license for the Kewaunee Power Station. NRC reviewed the environmental report submitted as part of the application and performed an on-site review. Staff also considered comments made during the environmental scoping process. The draft



supplemental environmental impact statement (EIS) was available for public comment until April 23, 2010, and was the subject of two public meetings.

The Kewaunee power station has one pressurized water reactor. The current operating license for the plant—which is located 27 miles east of Green Bay, Wisconsin—is due to expire on December 21, 2013. The plant's operator, Dominion Energy Kewaunee Inc., submitted its license renewal application on August 14, 2008.

*The Kewaunee draft supplemental EIS and other related documents are available on ADAMS using accession number ML100240002 at <http://www.nrc.gov/reading-rm/adams/web-based.html>.*

### **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 59 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>.*

## **ESP & COL Application Reviews Continue**

The U.S. Nuclear Regulatory Commission continues to process Early Site Permit (ESP) and Combined License (COL) applications.

An ESP, if approved, means that the site is suitable for a nuclear power facility, contingent on the approval of an additional application for a construction permit or combined license. An ESP is valid for 10 to 20 years and can potentially be renewed for an additional 10 to 20 years.

If issued, a COL provides authorization to construct and, with conditions, operate a nuclear power plant at a specific site and in accordance with laws and regulations.

In this regard, the agency recently took the following actions:

- ♦ On April 15, 2010, an Atomic Safety and Licensing Board (ASLB) panel heard oral argument regarding a hearing in the Comanche Peak COL proceeding. Although the public was invited to observe, participation was limited to the parties admitted to the proceeding including several public interest groups, the applicant and NRC staff. Luminant submitted the COL application on September 19, 2008. It seeks permission to construct and operate two new nuclear reactors at the Comanche Peak site near Glen Rose, Texas. *Documents related to the application are available at <http://www.nrc.gov/reactors/new-reactors/col/comanche-peak.html>. Documents pertaining to the ASLB proceeding are available at <http://www.nrc.gov/reading-rm/adams/web-based.html>.*
- ♦ On April 15, 2010, NRC conducted a public meeting in Victoria, Texas to discuss how the agency will review an ESP application for the

Victoria County site—which is located about 13 miles south of Victoria. During the meeting, NRC staff presentations described the overall ESP review process, which includes safety and environmental assessments, as well as how the public can participate in the process. The applicant, Exelon, submitted its ESP application on March 25, 2010.

- ♦ On March 25, 2010, NRC completed its final supplemental environmental impact statement (EIS) for the proposed North Anna Unit 3 reactor and concluded that there are no environmental impacts that would preclude issuing a COL for construction and operation of a new reactor at the site near Mineral, Virginia. Dominion Virginia Power submitted the COL application on November 27, 2007, following the issuance of an ESP for the site by NRC. Dominion is seeking approval to build and operate an Economic and Simplified Boiling Water Reactor (ESBWR) at the site, which is approximately 40 miles northwest of Richmond. *The North Anna final supplemental EIS may be found at <http://www.nrc.gov/reactors/new-reactors/col/north-anna.html>.*
- ♦ On March 19, 2010, NRC announced that the agency is seeking public comment on its preliminary finding that there are no environmental impacts that would preclude issuing a COL for two new reactors at the South Texas Project site near Bay City, Texas. NRC plans to discuss the draft EIS in meetings to be held in Bay City on May 6. STP Nuclear Operating Company submitted the application on September 20, 2007 and supplemented it several times thereafter. The company is applying for a license to build and operate two Advanced Boiling Water Reactors (ABWR) at the South Texas site. *A copy of the draft EIS for the South Texas site may be found at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1937/>.*

*Additional information on the NRC's new reactor licensing process is available on the agency's web site at <http://www.nrc.gov/reactors/new-reactor-licensing.html>.*

## NRC Issues Annual Assessment Letters

The U.S. Nuclear Regulatory Commission has issued annual assessment letters to the nation's 104 operating commercial nuclear power plants. Each plant receives either a mid-cycle review letter or an annual assessment letter every six months, along with an NRC inspection plan. The upcoming mid-cycle assessment letters will be issued in September 2010.

There are five levels of plant performance based on a detailed assessment of performance indicators (i.e., safety system availability and reliability, control of radiation exposure and unplanned shutdowns) and inspection findings. Levels range from “fully meeting all safety cornerstone objectives” (highest level) to “unacceptable performance” (lowest level).

Currently, 103 of 104 plants are in the two highest performance categories. Eighty-four plants are performing at the highest level and are being inspected by NRC using the normal detailed level inspection program. Nineteen plants are performing at the next highest level, needing to resolve one or two items of low safety significance. These plants will receive additional inspection and attention to follow up on corrective actions. The Ginna plant, in New York, is at the third level of performance with one degraded safety cornerstone and will receive more NRC

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## Annual Fuel Cycle Information Exchange Scheduled

The U.S. Nuclear Regulatory Commission will hold its fifth annual Fuel Cycle Information Exchange (FCIX) conference in Bethesda, Maryland from June 29 through July 1, 2010. This year's conference will be held at the Double Tree Bethesda Hotel and Executive Meeting Center at 8120 Wisconsin Avenue in Bethesda, Maryland.

The conference—which is sponsored by NRC's Office of Nuclear Material Safety and Safeguards—brings together NRC staff, industry representatives, licensees, certificate holders and other stakeholders to openly discuss regulatory issues of mutual interest as they relate to nuclear fuel cycle matters including: licensing, certification and inspection of nuclear fuel facilities for uranium conversion and enrichment, nuclear fuel fabrication and reprocessing, extended spent fuel storage and disposition, and advanced fuel cycles.

Topics scheduled for this year's conference include: updates on domestic and international nuclear fuel cycle activities; regulating the back-end of the fuel cycle; status of current regulatory issues; revising the regulatory process for oversight of nuclear fuel cycle facilities; implementing non-proliferation and security measures; lessons learned from construction and pre-operational readiness review inspections at new facilities; and, strengthening the nuclear safety culture.

*Online registration for the conference is available at <http://www.nrc.gov/public-involve/conference-symposia/fcix.html>.*

## NRC Hosts Groundwater Contamination Workshop

On April 20, 2010, the U.S. Nuclear Regulatory Commission hosted a public workshop at the agency's headquarters to hear from a variety of government, industry, academic and public experts about whether NRC policies on groundwater contamination at nuclear power plants need modification.

Recent incidents at several nuclear plants involving groundwater contamination have prompted plant owners and the NRC to look at the sources of the contamination. While the actions in each case have successfully identified the sources and ensured that licensees correct the problem, they have prompted the NRC to evaluate the adequacy of the actions and the agency's regulatory framework. Some actions are still under way.

NRC is examining whether the actions taken by the agency and/or facilities need to be augmented. The scope of the review will include, but not be limited to, industry experience and actions, health impacts, regulatory framework, NRC inspection, enforcement and reporting, international perspectives, and communication with external stakeholders.

The meeting format included a roundtable discussion by invited federal and state regulators, industry, academic and public interest experts in an open forum. Each roundtable participant was given the opportunity to make a short presentation in his or her area of expertise. Thereafter, a facilitated discussion was held among roundtable participants. Meeting attendees were given the opportunity to provide questions or concerns at various points throughout the workshop.

## NRC Hosts Meeting re Draft Rule on Construction Site Security

On March 31, 2010, the U.S. Nuclear Regulatory Commission conducted a public meeting at the agency's headquarters to discuss proposed language for a rule that would set requirements for access authorization and physical security at new reactor construction sites.

During the course of the meeting, NRC staff provided background on the topic and an overview of the proposed rule. The meeting was then opened to discussion and several question/answer periods were conducted. Staff also outlined a schedule for finalizing the proposed rule language.

*The draft rule language is available by going to <http://www.regulations.gov> and entering Docket Id NRC-2009-0195, or through the NRC's electronic documents database, ADAMS, by entering ML100750461 in the search engine at <http://adamswebsearch.nrc.gov/dologin.htm>.*

## Meeting Held re Proposed Changes to Emergency Preparedness

On April 13, 2010, the U.S. Nuclear Regulatory Commission held a meeting in Rockville, Maryland to discuss proposed changes to emergency preparedness guidance related to protective action recommendations in the event of a nuclear power plant accident. The changes to Supplement 3 of NUREG 0654/FEMA-REP-1 under consideration include:

- ♦ increased involvement of off-site response organizations, such as local law enforcement, in developing protective action strategies;
- ♦ consideration of staged evacuation as the first protective action initiated in a General Emergency (the most severe of NRC's four emergency classification);
- ♦ increased use of shelter-in-place for certain scenarios; and,
- ♦ guidance to improve communications between the plants and the public before and during an emergency.

In 2009, meetings were held in various locations to introduce proposed rule language related to enhancing emergency preparedness regulations. The April meeting was more narrowly focused, only addressing revisions to Guidance for Protective Action Recommendations for General Emergencies (NUREG 0654/FEMA-REP-1 Supplement 3).

*For additional information, please go to [www.nrc.gov/public-involve/public-meetings/index.cfm](http://www.nrc.gov/public-involve/public-meetings/index.cfm).*

## NRC Denies Industry Petition re Security Enhancements Extension

On March 8, 2010, the U.S. Nuclear Regulatory Commission announced that it has denied a petition seeking an additional nine months for nuclear power plants to comply with new security requirements. The Nuclear Energy Institute had filed the petition on September 25, 2009.

Specifically, the petition requested an expedited rulemaking that would revise the compliance date for new requirements in the power reactor security rule (10 CFR section 73.55) from March 31, 2010 to December 31, 2010. The petition stated that two provisions of the new security rule dealing with physical barriers and detection and assessment systems were problematic to complete on time since they involve engineering analysis and design, equipment procurement, installation, testing, and related training.

Given the time sensitive nature of the request, NRC docketed the petition and gave it immediate consideration. NRC staff reviewed the petition and the Commission voted to deny it based on several reasons, including the lack of time before the compliance date for staff to collect and analyze the necessary data and to complete an adequate notice and comment for rulemaking.

NRC believes that the exemption process is the best regulatory tool to address this situation since it allows the NRC and the licensee to focus on the unique circumstances that pertain to each specific extension request. In addition, NRC believes that revising the compliance date is an overly broad solution to an implementation problem. Those licensees that have requested extensions are encountering problems implementing only a few parts of the new requirements.

*The petition denial can be found at <http://edocket.access.gpo.gov/2010/2010-4827.htm>.*

## NRC Seeks Comments re Liquid Spills at Nuclear Plants

The U.S. Nuclear Regulatory Commission is seeking public comment on two proposed staff guidance documents that would help applicants for new reactor designs and operating licenses to properly analyze potential radioactive liquid spills at future reactors.

NRC's Office of New Reactors has made available two Interim Staff Guidance documents including ISG-013, "Assessing the Consequences of an Accidental Release of Radioactive Materials from Liquid Waste Tanks," and ISG-104, "Assessing Ground Water Flow and Transport of Accidental Radionuclide Releases."

These documents will provide additional guidance in properly assessing how accidental releases of radioactive liquids could affect surface and groundwater sources. Although ISG-013 was previously open for comment in 2009, NRC staff feels that the public will benefit from commenting on both documents at the same time.

NRC staff will consider the public's comments before finalizing the ISGs and incorporating them into the agency's new reactor review process.

*The ISGs are available on the NRC web site at <http://www.nrc.gov/reading-rm/doc-collections/isg/col-app-design-cert.html>.*

## NRC Launches New Open Government Web Page

The U.S. Nuclear Regulatory Commission has launched an Open Government web page to serve as the gateway for agency activities related to the White House's Open Government initiative. NRC is actively supporting the open government initiative and encouraging public participation through a new user-friendly citizen engagement tool accessible through this page. The web page can be found at <http://www.nrc.gov/open.html>.

The public and NRC employees can use the tool to easily share ideas and comments on how the agency can work better with others inside and outside government, improve the availability and quality of information, and be more innovative and efficient.

*More information on Open Government is available at <http://www.whitehouse.gov/open/documents/open-government-directive>.*

*(Continued from page 5)*

State of Washington, Susan Jablonski of the State of Texas, Joe Klinger of the State of Illinois, and Alyse Peterson of the State of New York.

*For additional information, please contact Todd D. Lovinger, the LLW Forum's Executive Director, at (202) 265-7990 or at [LLWForumInc@aol.com](mailto:LLWForumInc@aol.com).*

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inspections, senior management attention and oversight focused on the cause of the degraded performance.

Later this spring and summer, NRC will host a public meeting or other event in the vicinity of each plant to discuss the results of the annual assessment. A separate announcement will be issued for each plant meeting. In addition to the annual assessment letters, plants also receive an NRC inspection plan for the coming year.

*Updated information on plant performance is posted on NRC's web site every quarter at [http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/actionmatrix\\_summary.html](http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/actionmatrix_summary.html). The annual assessment letters sent to each licensee are available on the NRC's web site at <http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/listofasmrpt.html>.*

## Obtaining Publications

### To Obtain Federal Government Information

#### by telephone

- DOE Public Affairs/Press Office ..... (202) 586-5806
- DOE Distribution Center ..... (202) 586-9642
- 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](http://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](mailto:listserv@unixmail.rtpnc.epa.gov)
- EPA • (for program information, publications, laws and regulations) ..... [www.epa.gov](http://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](http://www.access.gpo.gov)
- GAO homepage (access to reports and testimony) ..... [www.gao.gov](http://www.gao.gov)

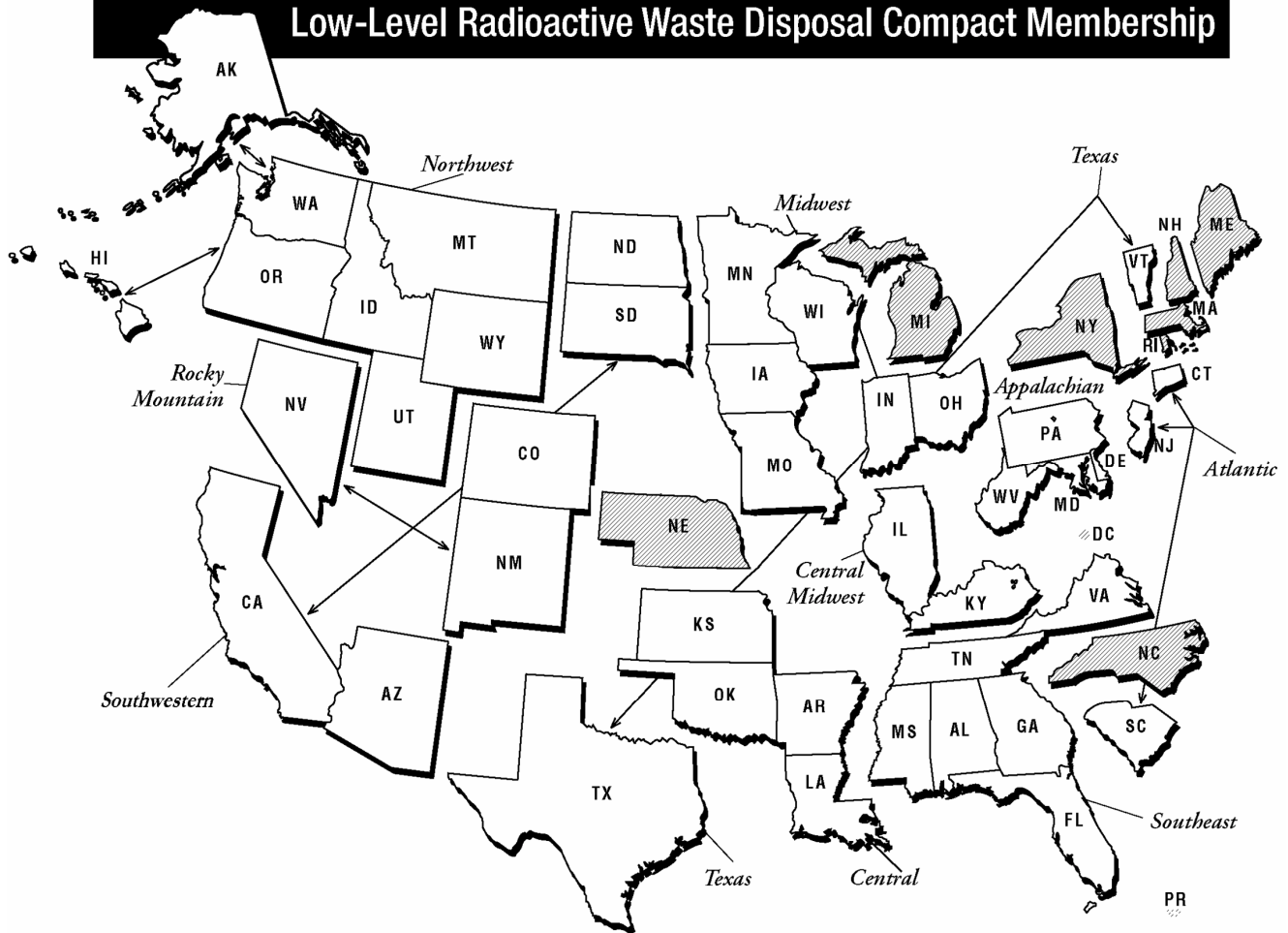
**To access a variety of documents through numerous links, visit the web site for the LLW Forum, Inc. at [www.llwforum.org](http://www.llwforum.org)**

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

*LLW Notes*, LLW Forum *Contact Information* 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 membership information are also available on the LLW Forum web site at [www.llwforum.org](http://www.llwforum.org). The *Summary Report* and accompanying Development Chart 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  
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