LLW notes

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National Academies of Science

National Academies of Science to Begin Shortly Study re Management and Regulation of Low-Activity Waste

In April, the National Academies of Science (NAS) tentatively plans to begin a study on improving practices for the regulation and management of low-activity radioactive waste in the United States, according to Kevin Crowley, Director of the NAS Board on Radioactive Waste Management (BRWM). The study, which was initiated by the board itself, will be conducted by a 15-member National Research Council committee with expertise in nuclear engineering/fuel cycle, waste generation, waste processing and disposal practices, international practices, health physics, risk analysis, performance assessment, legal and regulatory practices, environmental policy, and economics. The committee will hold up to 11 meetings over a period of 20 months to develop its report, which is expected to cost $691,800. To date, approximately $300,000 has been collected for the study from the U.S. Environmental Protection Agency, the U.S. Nuclear Regulatory Commission, and the U.S. Army Corps of Engineers. NAS plans to seek additional sudy funds from, among others, low-level radioactive waste compacts, state agencies responsible for regulating and managing low-activity waste, and the U.S. Department of Defense. According to Crowley, if full funding is not available by April, the study will likely be performed in phases to meet funding constraints.

Policy Background

A prospectus for the study was developed and modified to meet EPA funding requirements in July 2001. The prospectus discusses U.S. policy regarding the classification of radioactive waste on the basis of origin rather than radioactivity level or hazard. It notes that the current regulatory systems lack overall consistency—such that waste streams with similar characteristics may be regulated by different authorities and managed in disparate ways—but, for the most part, provide

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Key to Abbreviations

U.S. Department of Engergy	DOE
U.S. Department of Transportation	DOT
U.S. Enviromental Protection Agency	EPA
U.S. General Accounting Office	GAO
U.S. Nuclear Regulatory Commission	NRC
Naturally-occuring and accelerator-produced radioactive material	NARM
Naturally-occuring radioactive material	NORM
Code of Federal Regulations	CFR

Atlantic Compact/South Carolina

Board Declines to Authorize Staff to Adjust Class A Disposal Rates at Barnwell

Supplemental Allocations Now Available

A few recent developments have occurred regarding disposal rates and allocations at the Barnwell, South Carolina low-level radioactive waste disposal facility.

Vote re Adjustments to Class A Disposal Rates

On January 15, the South Carolina Budget and Control Board voted to disapprove a staff recommendation to provide staff immediate authority to adjust disposal rates for Class A radioactive waste at the Barnwell facility. Staff had made the proposal in order to maximize revenues to the state by competing more effectively for Class A waste, up to the 80,000 cubic foot limit set by law. Disapproval of the proposal means that the disposal rates published on the respective rate schedules for Atlantic Compact regional waste and non-regional waste remain unchanged. The rate schedules can be found on the Budget and Control Board's web site at

http://www.state.sc.us/energy/llrwdisposal.htm

The Barnwell site is owned by the Budget and Control Board, which under the law is responsible for setting disposal rates. The Board is also authorized to approve proprietary special pricing arrangements structured to suit an individual entity's disposal needs.

Availability of Supplemental Allocations

In January 2001, the South Carolina Budget and Control Board published initial allocation pools for the Barnwell low-level radioactive waste disposal facility for fiscal year 2002 (July 1, 2001 through June 30, 2002), as well as the formula for determining a generator's allocation from the non-regional "fixed" pool. (See *LLW Notes,* January/February 2001, pp. 1, 4.) Recently, supplemental allocations became available for "[w]aste generators whose Fixed Allocations fall short of the exact volume size of standard disposal packages or liners."

Background

South Carolina law limits the amount of waste that the Barnwell facility may accept in fiscal year 2002 to 80,000 cubic feet—a 35 percent reduction from the volume received during the prior one-year period. (See *LLW Notes,* September/October 2000, p. 4.) In November 2000, the Budget and Control Board adopted a method for allocating this disposal capacity among regional and non-regional generators. It provides that generators within South Carolina, Connecticut and New Jersey—the member states of the Atlantic Interstate Low-Level Radioactive Waste Compact—will have first priority for use of the disposal facility. Once the disposal needs of in-region generators have been met, the remaining disposal capacity is allocated to non-regional generators through the use of two pools: a fixed allocation pool and a variable pool. (See *LLW Notes,* January/February 2001, pp. 1, 4.)

Pursuant to state law, the Barnwell facility will cease accepting out-of-region waste after June 30, 2008.

For further information, contact Patricia Tangney of the Budget and Control Board staff at (803)737-8036 or see the board's web site at

http://www.state.sc.us/energy/llrwdisposal.htm

Central Compact

Central Compact Holds Mid-Year Meeting, Discusses Upcoming Litigation

The Central Interstate Low-Level Radioactive Waste Disposal Compact held its mid-year meeting on January 23 in Little Rock, Arkansas. The following topics, among others, were on the agenda for the meeting:

- action on applications to export waste from the region for management or disposal,
- the results of the commission's annual audit,
- proposed budget adjustments,
- continuation of a proposed interregional facility access agreement with the Central Midwest Interstate Low-Level Radioactive Waste Commission, and
- the status of ongoing litigation with the State of Nebraska regarding licensing of the proposed Boyd County low-level radioactive waste disposal facility.

During the course of the meeting, commission counsel Alan Peterson reported on the progress of the lawsuit against the State of Nebraska and mentioned that the trial court had preliminarily found a high probability of success for the commission. The lawsuit, which was originally filed in December 1998, challenges the state's actions in reviewing US Ecology's license application for a low-level radioactive waste disposal facility in Boyd County. (See *LLW Notes,* January/February 1999, p. 8.) In particular, the Central Commission argues that the license application was denied on improper grounds and that the entire license review process was tainted by bias on the part of Nebraska's Governor and other state officials and by the improper involvement of Nebraska's Department of Health and Human Services. The State of Nebraska denies that it acted in bad faith in reviewing the license application and has sought dismissal of the case based on, among other things, claims of Eleventh Amendment sovereign immunity. (See *LLW Notes,* September/October 2001, pp. 1, 11-13.) The case is set to go to trial in June of this year.

Peterson referred to a report by David Siefken of PMC—a Rockville, Maryland based company. Siefken is expected to serve as an expert witness at trial in support of the commission's position. According to Peterson, the report opines that bad faith appears to be the only reason that the state denied the license application. Peterson said that the report found that specifics in the site plan, such as the adequacy of the buffer zone and monitoring system, are sound. The report, according to Peterson, also found that state officials reviewing the license application and US Ecology should have communicated better. A report from Nebraska's expert is expected to be submitted shortly, according to Peterson.

In his presentation to the compact, Peterson acknowledged the importance of this lawsuit. "The usefulness of an idea of a compact between states to solve national or regional problems depends on the resolution of this case," said Peterson. "It is not just this compact."

During the course of the meeting, Nebraska's delegate to the compact—F. Gregory Hayden—argued that "[t]he current [low-level radioactive waste disposal] system isn't working." He contended that the storage system proposed in US Ecology's license application is not viable and recommended that the commission study legislation in other states for dealing with waste disposal issues.

For additional information about the Central Compact's meeting, please contact Rita Houskie, Office Administrator for the Central Commission, at (402) 476-8205.

Northwest Compact/Utah

Action Taken re Envirocare License Appeals and PFS Environmental Assessment

Action was recently taken on two separate radioactive waste matters pending in the State of Utah—one involving appeals of a new license granted to the Envirocare low-level radioactive waste disposal facility and the other involving the issuance of an environmental assessment for the planned Private Fuel Storage spent fuel repository on the Goshute reservation.

Appeals Process Moves Forward re Envirocare Class B and C License

On January, 3, the Utah Radiation Control Board voted 6 to 4 to allow three different entities to participate as intervenors in hearings regarding appeals of the Executive Secretary's July 9 decision to approve—subject to specified limitations and conditions—an application by Envirocare of Utah to receive and dispose of containerized Class A, B, and C low-level radioactive waste at its facility in Tooele County, Utah. (See *LLW Notes,* July/August 2001, pp. 6 – 9). The board also voted unanimously to allow a Tooele County commissioner to help decide the appeals, despite objections by opposition groups as to the commissioner's neutrality.

The three groups which brought the appeals and which have been awarded intervenor status are (1) Families Against Incinerator Risk (FAIR), (2) Utah Legislative Watch, and (3)Citizens Against Radioactive Waste. The U.S. Air Force and Sierra Club had also filed appeals. However, the Sierra Club withdrew its petition to intervene at the January 4 hearing. The intervenor status of the Air Force was delayed pending potential resolution of the issues that the Air Force brought before the board. All parties agreed that the Air Force issues could be decided separately on an issue and timing basis.

FAIR opposed the Tooele County commissioner's standing on the board for various reasons including that he allegedly received large campaign contributions from Envirocare and openly supports the company. Nonetheless, in the end, the board members concluded that the commissioner had not been shown to have behaved dishonestly and that he had openly stated his biases.

Utah law specifies that certain interests must be represented on the Radiation Control Board, including participants from academia, medicine, companies that generate or dispose of waste, a local health officer, a health physicist, members representing public interests, and an elected county official.

Documents related to Envirocare's application for the disposal of containerized Class A, B and C radioactive waste—including a copy of Envirocare's license application, the draft Safety Evaluation Report, the draft Radioactive Materials License, and the draft Groundwater Discharge Permit—are available for review and downloading on the Division of Radiation Control's website at

www.deq.state.ut us/eqrad/drc hmpg.htm.

For further information about the application or the appeals, please contact Bill Sinclair of the Utah Division of Radiation Control at (801) 536-4250.

NRC Issues Final EIS re PFS Spent Fuel Storage Proposal

In early January, the U.S. Nuclear Regulatory Commission issued a favorable Final Environmental Impact Statement (EIS) on the Private Fuel Storage, L.L.C. plan to construct and operate a spent fuel storage facility on the Skull Valley Band of Goshute Indians reservation in Tooele County, Utah. PFS is a consortium of out-of-state utility companies which has leased 125 acres of land on the Goshutes reservation for the proposed $3.1 billion, above-ground storage facility. The facility is intended to be temporary—until a high-level waste repository becomes available.

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NAS Panel Studies Fate of Atlas Mill Site

A panel of the National Academy of Sciences is studying the disposition of 10.5 million tons of radioactive mill tailings from the Atlas Corporation mill site near Moab, Utah. The Atlas Corporation, which processed mined uranium at the site for nuclear weapons from 1962 to 1984, filed for bankruptcy in 1998. Thereafter, the U.S. Nuclear Regulatory Commission took control over the site and a court-appointed trustee worked on site stabilization issues. In October 2001, at the direction of Congress, the U.S. Department of Energy took title to the 130-acre site.

Toxic materials from the Atlas site have been reported to be leaking into the nearby Colorado River and killing endangered fish. In response thereto, DOE has begun work on reducing toxins leaking into the river from the pile. In the meantime, DOE is monitoring air and water quality at the site.

The NAS panel will make recommendations to DOE on disposition of the tailings based on scientific study. Two alternatives, in particular, are being considered by DOE. One, with an estimated cost of $137 million, is to cap the tailings in place. The other alternative, which is estimated to cost approximately $363 million, is to move the tailings to off-site disposal. Three possible off-site disposal locations have been identified: a landfill operated by the East Carbon Development Corporation, the International Uranium Corporation's White Mesa reprocessing facility, and the Envirocare of Utah disposal facility. In any case, the cleanup effort is expected to take at least nine years to complete.

NAS will make recommendations on how to deal with the tailings pile. However, the final decision of what to do is left up to DOE. Nonetheless, if DOE does not follow NAS' recommendations, it must report to Congress on its reasons for not doing so.

Charles Judd Departs As President/CEO of Envirocare

Earlier this week, Charles Judd departed his position as President and Chief Executive Officer of Envirocare of Utah—effective immediately. The reasons for Judd's departure are unknown. Envirocare has made no statement on the issue, to date.

Kenneth Alkema has been named interim President and CEO of Envirocare until a replacement is named. Alkema, who has been with Envirocare for 6 years, is a Senior Vice President at the company. It has been reported that Envirocare's Board of Director's will institute a "nationwide search" to fill the position of President and CEO of the company.

Prior to his resignation, Judd worked for Envirocare for 13 years. He replaced Envirocare owner Khosrow Semnani as President and CEO in 1997.

Envirocare was recently awarded a license—subject to specified limitations and conditions—to dispose of containerized Class B and C low-level radioactive waste. Three entities have appealed the licensing decision. Moreover, Envirocare has announced that it will not seek the required legislative or gubernatorial approval of the license, at this time. (See *LLW Notes,* November/December 2001, pp. 6, 13.)

Germany to Close Nuclear Plants

The German Parliament recently approved a plan to shut down all of the country's 19 nuclear power plants within 20 years. The plan was developed in conjunction with Chancellor Gerhard Schroeder's pledge to the environmentalists Greens party, which for years has called for the elimination of nuclear power and nuclear waste transports.

Germany is the world's largest industrialized nation to willingly forgo nuclear technology. Currently, nuclear power plants provide nearly one-third of the country's electricity.

Under the new legislation, plants will begin to be closed in 2003, with the last plants to be closed in 2021. Nuclear waste may then be stored on-site for up to 40 years.

Southeast Compact

Respected Chairman of Southeast Compact Succombs to Congestive Heart Failure

Dr. Richard Hodes, Chair of the Southeast Compact Commission for Low-Level Radioactive Waste Management, died of congestive heart failure recently at his home in Tampa, Florida. Dr. Hodes was an anesthesiologist for more than 40 years and former Florida House majority leader and Speaker Pro Tempore. He was 77 at the time of his death.

From 1967 to 1982, Dr. Hodes served as a state Representative from Tampa in the Florida House. During that time, he introduced several important health care bills. From 1982 to 1987, Dr. Hodes worked as a professor and Chair of the Department of Anesthesiology at the University of South Florida. Dr. Hodes was also a past President of several medical associations, including the Florida Medical Association, and a past President of the National Conference of State Legislatures.

"Dr. Hodes was one of the Commission founders and served as the Commission's Chairman since its first meeting in July 1983," said Kathryn Haynes, Executive Director of the Southeast Compact Commission. "His knowledge of politics and policy development helped to mold this Commission as a leader in the compact system. Those who have worked with him will remember his leadership and wisdom, as well as his charm and wit."

American Ecology Sells Oak Ridge Brokerage Business

American Ecology recently announced the sale of equipment, customer account information, and other assets for the company's Oak Ridge, Tennessee radioactive waste brokerage business to Chase Environmental Group, Inc. of Louisville, Kentucky for an unspecified amount of cash. As part of the sale, American Ecology established a teaming relationship with Chase.

In announcing the sale, Stephen Romano—American Ecology's President and Chief Operating Officer—stated as follows:

"The successful sale of our Brokerage Services continues the execution of American Ecology's business strategy of focusing on our core waste processing and disposal services . . . We are confidant that Chase Environmental will continue the quality service provided in the past to our customers."

In November, American Ecology sold the company's Nuclear Equipment Service Center assets in Oak Ridge to Alaron. American Ecology, through its subsidiaries, provides radioactive, PCB, hazardous and non-hazardous waste services to commercial and government customers including nuclear power plants, medical and academic institutions, steel mills, and petro-chemical facilities. The company's headquarters are located in Boise, Idaho.

Duratek Announces Commercial Processing Operations Workforce Reduction

On January 21, Maryland-based Duratek, Inc. announced that it is completing a workforce reduction of approximately 130 employees in its Commercial Processing Operations. The reduction is mainly focused on the company's low-level radioactive waste processing facility located in Oak

Ridge, Tennessee. A large portion of the waste inventory at the facility was processed in 2001. The waste had accumulated primarily from contracts for the decommissioning of three nuclear power plants. The reduction, along with a recent reduction of 44 employees at the company's Memphis facility, is expected to generate in excess of $7.4 million in annual cost savings.

In announcing the workforce reduction, Robert Prince - President and Chief Executive Officer of Duratek - said, "The workforce reduction at the Oak Ridge facility is unfortunate, but necessary to position the Commercial Processing business with its marketplace and improve its financial results."

CRCPD Establishes Program for Orphan Sources

In October 2001, the Conference of Radiation Control Program Directors (CRCPD) announced a program of financial support for disposition of orphan sources. The program, which has received a total of $224,000 from the U.S. Nuclear Regulatory Commission and the U.S. Department of Energy, is based on a pilot study in Colorado that was supported by the Environmental Protection Agency with the State of Colorado.

CRCPD's program will support disposition of discrete sources or devices containing radioactive material recognized under the Atomic Energy Act—except material which is being dealt with by another program—and naturally occurring and accelerator-produced radioactive material (NARM). Diffuse materials—such as contaminated soil, building rubble, scaled pipe and metal turnings—will not be eligible for the program.

If the processor should not be held liable for disposition of the source, or if neither the processor nor the state has funds to manage the source safely, CRCPD will fund its disposition. It is anticipated, however, that most of the sources accepted under the program will be returned to their manufacturer.

For additional information, please contact Terry Devine of the Conference of Radiation Control Program Directors at (502) 227-4543.

Commonwealth of Massachusetts

Massachusetts Sues Company Over Waste Disposal

The Attorney General's Office of the Commonwealth of Massachusetts recently filed a lawsuit seeking to force Starmet Corporation - which was formerly known as Nuclear Metals, Inc. - to dispose of approximately 4 million pounds of low-level radioactive waste. The waste, which consists of 3,800 barrels of depleted uranium and its byproducts, is currently stored at the company's 46-acre property in Concord. The property was named as a federal Superfund cleanup site earlier this year. Massachusetts is concerned that Starmet, a munitions maker which the state claims is on the verge of bankruptcy, will fail to properly dispose of the waste. Starmet reportedly owes nearly $5 million to Envirocare of Utah at present.

In its lawsuit, the Attorney General's Office alleges that Starmet illegally transported 1,700 barrels filled with depleted uranium from South Carolina to its Concord site this spring. The company no longer has a weapons contract and, therefore, has no need for the depleted uranium according to state officials. Indeed, a new state license to the company issued in the fall prohibits Starnet from having depleted uranium on its property.

The U.S. Environmental Protection Agency has reportedly asked the Army to help pay for cleanup of the Starmet property.

(Continued from page 1)

adequate protection of worker safety and public health. Nonetheless, the prospectus notes that some waste types (including some types of naturally occurring radioactive materials) may have "fallen through the cracks in a regulatory sense."

In regard to the regulatory framework for the management and disposal of low-level radioactive waste, the prospectus states as follows:

"Current policies have also created significant disparities in options and costs for managing some radioactive waste streams. For example, policies put into place in the 1980's for managing civilian low-level radioactive waste have led to a reduction in availability of disposal capacity and a significant increase in disposal costs. There has been a concomitant reduction—by almost an order of magnitude since the mid 1980s—in the volume of civilian low-level waste sent to disposal each year. This reduction probably reflects a variety of factors, most notably the development of new technologies for waste minimization, increased storage of waste at generator sites throughout the country, and the curtailment of radioisotope use in important research and medical applications because of high disposal costs. The picture for defense low-level waste, much of which is radiologically similar to the civilian waste stream, is very different: there is more than adequate disposal capacity, and disposal costs are only a fraction of civilian costs."

Technical Background

The study will encompass all types of low-activity waste including

- low-level radioactive waste and 11.e(2) byproduct material;
- technologically enhanced naturally occurring radioactive material (TENORM); and
- other types of naturally occurring radioactive materials and exempt source materials.

Methods for disposing of the above-listed wastes vary by origin. According to the study prospectus, these variations have potentially significant health, safety and cost implications and may impact the public's confidence in federal and state systems for regulating and managing the wastes. The prospectus states that "[t]he BRWM believes that there would be broad federal and state interest in a National Research Council study that examines the current framework for regulating and managing this waste, especially to assess whether current practices can be improved to enhance technical soundness, ensure continued protection of public and environmental health, and increase cost effectiveness."

The study prospectus specifically states that low-level radioactive waste may be considered by the committee separately from other waste types. Separate consideration may be afforded due to volume and radionuclide differences and the fact that low-level radioactive waste "is subject to more comprehensive regulation involving federal, state, and regional authorities and has also been the subject of Congressional mandates." In addition, the BRWM believes that the established system for managing and disposing of low-level radioactive waste may be less amenable to change than those for other waste types included in the study.

Statement of Task

According to the prospectus, the study will focus on the following three tasks:

(1) provide a summary of the sources, forms, quantities, hazards, and other identifying characteristics of low-activity waste in the United States;

(2) review and summarize current practices and policies for the regulation, treatment and disposal of low-activity waste (including the quantitative bases for existing regulatory systems) and identify any waste streams that are not being regulated or managed in a safe or cost effective manner; and

(3) provide an analysis of policy and technical options for improving low-activity waste regulatory and management practices to ensure continued public and environmental protection, enhance technical soundness, and increase cost effectiveness. The analysis is expected to examine options for utilizing risk-informed practices for identifying, regulating, and managing low-activity waste irrespective of its classification.

For additional information, please contact Kevin Crowley of the BRWM at (202) 334-3066.

(Continued from page 5)

In a press release issued along with the EIS, NRC states as follows:

"Based on an evaluation of the PFS proposal and its reasonable alternatives, including a no-action alternative, the NRC concluded that the preferred alternative is the facility as proposed by PFS, with implementation of mitigation measures recommended by the cooperating Federal agencies."

The EIS evaluated "the construction and operation of the proposed spent nuclear fuel storage facility at a site on the reservation and transportation of the spent nuclear fuel from the existing railroad to the site by constructing a new rail siding and rail line to connect the proposed facility to the existing main rail line in Utah." A draft environmental assessment on the proposal had been issued by NRC in June. Four hundred parties submitted over 4,000 comments on the draft assessment.

Several other federal agencies must now make decisions concerning the proposed storage facility. For instance, the Bureau of Indian Affairs must approve the lease between PFS and the Goshute tribe, the Interior Department's Bureau of Land Management must approve use of federal land to construct a new rail spur to the site, and the Surface Transportation Board must approve a license to construct the new rail line.

The proposal faces severe opposition within the State of Utah including the Governor, anti-nuclear groups, the Southern Utah Wilderness Alliance, and some members of the Goshute tribe. (See *LLW Notes,* November/December 2001, p. 9 and September/October 2001, p. 8.)

A public version of the "Final Environmental Impact Statement for the Construction and Operation of an Independent Spent Fuel Storage Installation on the Reservation of the Skull Valley Band of Goshute Indians and the Related Transportation Facility in Tooele County, Utah," NUREG-1714, can be found on the web at http://www.hsrd.ornl.gov/nrc/special/environ/skullvalley.htm. It is also available electronically through the NRC's Electronic Reading Room at www.nrc.gov as an Agencywide Document Access and Management System (ADAMS) document.

For background information on the PFS/Goshute proposal, see LLW Notes, July/August 2000, p. 26.

American Ecology Appoints New Corporate Controller

On February 4, American Ecology Corporation announced that its Board of Directors has appointed Michael Gilberg as Vice President and Corporate Controller. In announcing the decision, Jim Baumgardner - Senior Vice President, Chief Financial Officer and Treasurer - said, "Michael's strong financial reporting, corporate accounting, and auditing experience is an excellent fit for this position . . . we believe the addition of Michael to the American Ecology team will contribut to building our business and improving earnings."

Prior to joining American Ecology, Gilberg served as Controller for TJT, Inc. - a publicly traded company located in Emmett, Idaho. Gilberg also has prior experience working for the international auditing firms of KPMG and Deloitte and Touche.

Private Fuel Storage, L.L.C. v. State of Utah

DOJ Asks Court to Dismiss Utah's Claim that NRC Can't License PFS Facility

Attorneys for the U.S. Department of Justice recently asked the U.S. District Court for Salt Lake City, Utah to dismiss the state's claim that the U.S. Nuclear Regulatory Commission has no jurisdiction to license a spent nuclear fuel storage facility on the Skull Valley Band of Goshute Indians Reservation. The state made the claim as part of its motion to dismiss a lawsuit filed by the Goshutes and Private Fuel Storage, L.L.C.—a coalition of nuclear utilities seeking to site the proposed facility on the Goshutes reservation. To date, the court has not ruled on DOJ's arguments.

The Issues

In arguing that the court should dismiss the state's claim, DOJ attorneys cited a federal procedural law called the Hobbs Act to assert that Utah can only dispute NRC's authority after regulators have licensed the facility. In addition, the DOJ lawyers assert that the jurisdictional question should be raised before the U.S. Court of Appeals. According to DOJ's brief, the district "court is without jurisdiction to address Utah's counter-claim."

NRC has already rejected the state's jurisdictional claim through its Atomic Safety and Licensing Board. DOJ asserts that Utah may challenge that decision in an appeal to the commission itself. The appeals court only has jurisdiction over appeals of commission rulings. DOJ's brief argues that "[t]he lack of agency action is fatal to Utah's claim" and that the court should therefore dismiss it as "premature."

The commission tentatively plans to make a decision on PFS' and the Goshutes' licensing request in September.

Background

The lawsuit, which was originally filed in April 2001, complains that six recently enacted state laws erect unfair and unconstitutional barriers to the plaintiffs' facility siting plans. In particular, the suit alleges that the laws unlawfully interfere with interstate commerce and infringe upon exclusive federal authority over the regulation of Indian affairs and nuclear power. (See *LLW Notes,* May/June 2001, p. 18.)

On September 20, the State of Utah filed a motion to dismiss the action. In the motion to dismiss, the state argues that the Nuclear Waste Policy Act of 1982 prohibits high-level radioactive waste from being stored off-site at a facility that is not owned and operated by the federal government. Accordingly, the state claims that the proposed storage facility is unlawful and that there is no basis for the plaintiffs' lawsuit. The motion to dismiss follows a July 2001 counterclaim filed by the state questioning the legitimacy of the siting proposal. (See *LLW Notes,* July/August 2001, pp. 20-21.)

For background information on the PFS/Goshute proposal, see LLW Notes, July/August 2000, p. 26.

Nevada Sues DOE re HLW Repository; Iowa Adopts Waste Transportation Fee Regulations

Recently, the State of Nevada filed a lawsuit against the U.S. Department of Energy seeking to halt any further work on development of the proposed high-level radioactive waste repository at Yucca Mountain, Nevada. Meanwhile, the Iowa Administrative Rules Review Committee (ARRC) recently approved a rule which levies a fee on the transportation of radioactive waste between its borders.

Nevada Lawsuit re Yucca Mountain

The Issues In its lawsuit, the State of Nevada challenges guidelines recently adopted by the U.S.

Department of Energy for judging the suitability of the proposed Yucca Mountain site. (See *LLW Notes,* November/December 2001, p. 16.) The suit, which was filed in the U.S. Court of Appeals for the District of Columbia Circuit, argues that the guidelines are contrary to Congressional intent and requests that Energy Secretary Spencer Abraham be enjoined from making recommendations on Yucca Mountain until the court can review the guidelines. Abraham was expected to make a repository recommendation in the coming months.

DOE has defended its guidelines as within the law, arguing that they are based on sound science and on the recommendations of experts. Nevada, however, asserts that the guidelines were improperly revised after scientists anticipated that the natural features of Yucca Mountain might not work as a primary barrier to prevent radiation from escaping into the environment. Nevada claims that this action violated a section of the Nuclear Waste Policy Act of 1982 which states that "geologic considerations shall be the primary criteria for selection of sites."

DOE argues that the combination of engineered features with natural barriers is appropriate and will create a safe and effective repository. The waste is expected to be stored in corrosion-resistant containers which will be shielded from elements which might hasten their decay.

In a letter last Friday to Nevada Governor Kenny Guinn and Attorney General Frankie Sue Del Papa, DOE General Counsel Lee Lieberman asserted that the site guidelines are appropriate measures which were developed on recommendations by the National Academy of Sciences and directives from the U.S. Nuclear Regulatory Commission.

Related Litigation Two other lawsuits concerning the proposed Yucca Mountain repository are currently before the courts. In one, filed in the U.S. Court of Appeals for the District of Columbia Circuit on June 27 of this year, the State of Nevada and environmental groups are challenging radiation standards that the U.S. Environmental Protection Agency set for the planned repository. The Nuclear Energy Institute also sued the EPA over the standards on June 6, arguing that portions of them are redundant and not based on sound science. The other suit—filed by DOE in the U.S. District Court in Las Vegas on March 2, 2000—challenges the State of Nevada's denial of water permits to build and operate the planned repository.

NAS Hearing On December 17, a National Academy of Sciences committee heard testimony about the appropriateness of DOE plans to take a staged approach to designing, building and operating the planned Yucca Mountain repository. The committee, which is comprised of a panel of independent scientists, was assembled at DOE's request and expense to examine a flexible, step-by-step approach to disposing of radioactive waste nationally and abroad. The committee is expected to complete a final report on its findings next year. The report will be used by the National Research Council, the operating agency of the Academy, to make recommendations on the design and operational strategies for a staged, geologic repository.

Iowa Transportation Fees

The rule [Iowa Administrative Code Chapter 641-38.8(11)] approved by the Iowa Administrative Rules Review Committee on December 11 levies a charge of between $50 to $1,750 on shipments of radioactive waste across the state. It applies to both high- and low-level radioactive waste. The amount of the fee depends on the type of material being shipped and the mode of transportation. The fee for low-level radioactive waste is a flat $50 per load.

Approximately 4,000 shipments of radioactive waste cross Iowa borders each year. Under the rule, fees for these shipments will have to be paid by the shipper or individual owning the waste - not the truckers or railroads that transport it. The fees will be used to train emergency crews for accidents involving radioactive materials.

The rule was originally adopted on March 14, 2001 by the Iowa Board of Health. (See *LLW Notes,* May/June 2001, p. 5.) It was challenged by various parties and revised. (See *LLW Notes,* July/August 2001, p. 5.)

The new rule is expected to be published in early February. It is not expected to be implemented, however, until July 2002.

(Continued from page 15)

The abstract which accompanies the report states as follows:

> In most of the requests approved by the U.S. Nuclear Regulatory Commission (NRC) to transfer licenses to own or operate nuclear power plants, the financial arrangements have sought to ensure that adequate funds will be available to decommission those plants. However, when new owners proposed to continue relying on periodic deposits to external sinking funds, NRC's reviews were not always rigorous enough to ensure that decommissioning funds would be adequate. Varying cleanup standards and proposed new decommissioning methods introduce additional uncertainty about the future costs of decommissioning nuclear power plants. Changes to the Financial Accounting Standards Board's financial reporting standard will require, for the first time, owners of facilities that require significant end-of-life cleanup expenditures - such as nuclear power plants - to consistently report estimated decommissioning costs as liabilities in their financial statements. However, the new accounting standard is not intended to, and will not, establish a legal requirement that these licensees set aside adequate funding for decommissioning costs.

A copy of GAO's report can be obtained on the agency's website at www.gao.gov.

U.S. Congress

DOE and NRC Receive Additional Funding to Protect Against Nuclear Threats

In the wake of the September 11 terrorist attacks, the U.S. Congress has given both the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission additional 2002 funding toward security and nonproliferation measures. The additional monies - nearly $390 million for DOE and $36 million for NRC - were included in a $20 billion emergency spending measure attached to the fiscal year 2002 defense appropriations bill.

DOE Monies

DOE received an additional $226 million for its nonproliferation program as part of the emergency spending measure. Nearly $120 million of those additional funds are earmarked toward securing plutonium and weapons-usable uranium in the former Soviet Union - a program that previously had been targeted for reduction. In addition, DOE received additional monies for the following programs:

- $131 million toward DOE's Nuclear National Security Administration, of which $76 million is to be used toward physical security upgrades at DOE nuclear weapons facilities;
- $8.2 million for DOE's environmental cleanup program to upgrade security at the Hanford and Savannah River sites;
- 20 million for the Sandia and Los Alamos nuclear weapons laboratories to jointly establish the National Infrastructure Simulation and Analysis Center (NISAC) to analyze and propose security upgrades critical national networks;
- $78 million toward research and development work on technologies for analyzing and detecting biological and chemical attack threats;

- $10 million for improvement of safety at Soviet-designed nuclear power reactors; and
- $15 million for conversion of Russia's nuclear weapons complex and workforce to commercial businesses.

NRC Monies

NRC was directed to use its additional funding toward the improvement of security at commercial nuclear power plants. NRC is expected to use NISAC's expertise in doing so. In addition, NRC was ordered to

- perform vulnerability assessments of nuclear power plants,
- reanalyze design basis threats used to develop plant safeguards, and
- strengthen the agency's emergency preparedness and communications capabilities.

U.S. House of Representatives

House Resources Committee Chair to Retire

U.S. Representative James Hansen (R-UT), Chair of the House of Representatives' Resources Committee, recently announced that he will retire at the end of the year. Hansen has served as a member of the House of Representatives for 22 years. His retirement is attributed to personal reasons - the long commute from Utah to Washington and a desire to spend more time with his family.

Hansen's retirement will mean that a new Resources Committee Chair will need to be identified. His likely successor is Representative Jim Saxton (R-NJ). Saxton, who is currently serving his ninth term, is third in seniority behind Representatives Don Young (R-AK) and William Tauzin (R-LA). However, Young currently chairs the Transportation and Infrastructure Committee and Tauzin chairs the Energy and Commerce Committee and neither is expected to give up those positions.

NCRP Says Consistent Scrap Metal Standards Needed

In December 2001, the National Council on Radiation Protection and Measurements (NCRP) released a draft report calling for the development of a "comprehensive and consistent national and international policy for managing potentially radioactive scrap metal."

In that regard, the draft report, titled "Managing Potentially Radioactive Scrap Metal," makes the following recommendations, among others:

- a set of uniform clearance standards to address national and international concerns should be developed, including NORM and TENORM;
- regulatory control over orphan sources should be improved;
- the processes of clearance and inventory/interception should be better harmonized;
- the use of licensed mills as "clearing houses" for recycling should be encouraged;
- new technologies and/or plant designs should be developed to reduce metal contamination; and
- an effort should be made to enhance public understanding of the clearance process.

NCRP accepted comments on the draft report until February 4.

In a somewhat related matter, the National Research Council of the National Academy of Science is expected to release soon its own study on the clearance of potentially contaminated solid materials from sites licensed by the U.S. Nuclear Regulatory Commission.

A copy of the NCRP report is available at www.ncrp.com.

General Accounting Office

GAO Report: Fundamental Reassessment of DOE Needed

The U.S. General Accounting Office recently issued a report finding that reforms implemented by the U.S. Department of Energy have not adequately improved operations and that consideration should be given to moving some of the department's programs to other agencies or to the private sector. The report acknowledged that some progress has been accomplished as a result of DOE reforms, but cited key problems including the department's highly diverse missions, "dysfunctional" organizational structure and weak accountability mechanisms. Accordingly, GAO concluded that DOE should work with Congress and the White House on a "fundamental reassessment" of its programs in order to "develop a strategy for determining the best place for DOE's diverse missions." GAO went so far as to state in its report that, "[c]ertain DOE missions might be managed better if located elsewhere, either combined with other federal agencies that have similar responsibilities or delegated to the private sector." In addition, GAO said DOE must "improve accountability of federal and contractor staff."

GAO's report is likely to reignite interest in restructuring, or perhaps abolishing, the U.S. Department of Energy—an idea discussed often by Republicans throughout the 1990's. Due to objections from the Clinton administration and lack of a clear plan, however, the concept never advanced.

The report came as high-level DOE officials are preparing to deliver operational improvement recommendations to Energy Secretary Spencer Abraham. The "strategic mission review," initiated late last year, is aimed at revamping department programs to support national security through improved nuclear weapons operations, better-focused research on diversifying energy supplies and new efforts to protect America's energy infrastructure from terrorist attacks.

GAO acknowledged the strategic mission review in its report, but concluded that it is too narrowly focused on national security issues and does not contemplate the transfer of any DOE missions to outside entities.

> Without a serious effort to consider each mission for its proper placement in or out of DOE, the structural problems that have clouded roles and responsibilities will likely persist. Therefore, we reaffirm our recommendation that DOE develop a strategy for realigning its missions, followed by a proposal to Congress.

Nonetheless, GAO noted that the strategic mission review may help in addressing some DOE management problems.

A copy of the report can be obtained from GAO's website at www.gao.gov.

GAO Issues Report re Adequacy of Decommissioning Funds

The U.S. General Accounting Office recently released a report regarding the adequacy of financial arrangements for the decommissioning of nuclear power plants. The report, titled "Nuclear Regulation: NRC's Assurances of Decommissioning Funding During Utility Restructuring Could Be Improved," questions whether NRC has conducted thorough enough reviews to ensure the adequacy of decommissioning funds for U.S. nuclear power plants.

(Continued on page 13)

U.S. Army Corps of Engineers

Army Corps of Engineers to Ease Wetlands Rules

The U.S. Army Corps of Engineers recently announced plans to ease its rules for protecting streams, bogs, marshes and other bodies of water, thereby undoing several rules put into place by the Clinton administration in 2000. The Corps, which enforces wetlands laws, says that the changes will improve environmental protection.

As part of the revisions, the Corps is publishing new versions of 11 general permits to allow construction on top of wetlands. Each permit involves a different type of development, from digging coal mines to building houses. General permits apply only to activities that do "minimal" environmental damage and therefore require limited paperwork and federal review.

Some of the rule changes include the following:

- Developers who destroy wetlands will no longer need to restore them or build an equal number of acres of wetlands. Instead, each of the Corps' 41 districts is responsible for making sure that it does not lose more wetland acreage than it gains.
- Developers may destroy up to 300 feet of a seasonal stream after only a brief check by Corps' regulators, thereby freeing up Corps' staff for reviewing projects with potentially larger environmental impacts.
- Developers will no longer be required to provide the Corps with proof that their projects adhere to federal and local standards for building in a flood plain.

Developers are pleased with the changes being implemented by the Corps, whereas environmentalists allege that they will seriously weaken current environmental protections.

The new permits go into effect on March 16.

U.S. Department of Energy

Abraham Chooses Yucca Mountain for HLW Repository

As expected, on January 10, U.S. Energy Secretary Spencer Abraham announced his selection of Nevada's Yucca Mountain site for the construction and operation of a national high-level radioactive waste repository. In so doing, Abraham concluded that the site, which is located 80 miles northwest of Las Vegas, is "scientifically sound and suitable." A final administration decision will be made by President George W. Bush, who has supported the need for a central disposal site and is expected to seek a federal license. Nevada officials, who have fought the proposed facility for more than a decade, are expected to veto the administration's decision. That would leave Congress, pursuant to the 1982 law, with the decision of whether or not to override such a veto. Even if Congress does so, the site is not scheduled to be ready to accept waste until 2010, at the earliest.

To date, the government has spent almost two decades and approximately $8 billion to study the Yucca Mountain site—which consists largely of volcanic rock formed 13 million years ago. Currently, more than 40,000 tons of high-level waste is being stored at nuclear power plants around the country, with approximately 2,000 tones added each year. If licensed, the Yucca Mountain site is expected to hold up to 77,000 tons of waste buried 900 feet beneath the earth's surface.

Scientific Panel Expresses "Limited Confidence" in DOE Determination

An 11-member scientific panel created by Congress as a technical watchdog in the search for a site for a high-level waste repository recently sent a letter to congressional leaders and the U.S. Department of Energy stating that it will be impossible to avoid unexpected problems at any high-level radioactive waste repository due, among other things, to the long-term nature of the stor-

age (more than 10,000 years). The letter emphasized, nonetheless, that the scientists were not offering any judgment on whether Yucca Mountain should be designated for such a facility and acknowledged that no specific issues have been identified that would preclude use of the site.

The panel, known as the U.S. Nuclear Waste Technical Review Board, has been using computer models to try to predict site performance thousands of years into the future. In a recently released report, the scientists state that there remain "gaps in data and basic understanding" of how volcanic rock and hydrology, as well as man-made barriers, will perform over time. Accordingly, the panel notes that it has "limited confidence" in DOE's determination that the site will provide the anticipated environmental and public health protections and urges the department to find ways to make its projections "more realistic." Nonetheless, the scientists acknowledge that "eliminating all uncertainty associated with [future] performance would never be possible at any repository." The panel concluded that policy makers will have to decide exactly "how much scientific uncertainty is acceptable."

NRC Proposes New Rules for Yucca Mountain

The U.S. Nuclear Regulatory Commission is proposing to set limits on when an event or process is so unlikely that it need not be considered in analyzing the suitability of the proposed Yucca Mountain repository. Specifically, NRC is proposing to set numerical values for deciding when a geological, hydrological or climatological feature, event or process is so unlikely that it need not be a consideration in the analysis of whether the repository will meet radiation dose standards for groundwater protection and human intrusion contained in NRC regulations. Such unlikely events would still have to be considered, nonetheless, in determining whether the repository would meet the overall 15 millirem radiation limit for protection of individuals.

NRC's proposed regulation defines unlikely as those features, events or processes that are estimated to have less than a 10 percent chance of occurring within 10,000 years of disposal of waste at the repository. Two such unlikely events include a volcanic eruption or the drilling into the waste by humans.

NRC is currently accepting public comment on its proposal.

GAO Finds Yucca Project Behind Schedule and Over Budget

A recent report released by the General Accounting Office finds that the Yucca Mountain project is years behind schedule and that the repository is unlikely to open before 2015, at the earliest. Moreover, the report—which was requested by Representative Shelley Berkley (NV-D) and Senator Harry Reid (NV-D)—says that the project is estimated to cost $56 billion, but may reach $63 billion according to a primary contractor. To date, approximately $8 billion has been spent on the project. Only $11 billion remains in a fund paid by utility user-fees to support the project. The rest, according to GAO, will have to be paid by taxpayers.

GAO's report, titled "Technical, Schedule, and Cost Uncertainties on the Yucca Mountain Repository Project," can be obtained from GAO's website at www.gao.gov.

Coalition Urges Rejection of Yucca Mountain

On January 30, a coalition of 22 national organizations and 210 regional, local and Native American groups delivered a letter to Congress arguing that DOE's study of the proposed Yucca Mountain high-level radioactive waste repository is "flawed" and urging lawmakers to reject DOE's selection of the site. In support of this contention, the letter references a November 2001 report by DOE's Inspector General which found conflicts of interest amongst contractors on the project. In particular, one law firm was simultaneously employed as counsel to DOE while being registered as a member of and lobbyist for the Nuclear Energy Institute.

Based on these conflicts, the coalition believes that "DOE has failed to exercise necessary oversight of its contractors, resulting in an apparent pro-industry bias in the agency's site characterization and site recommendation activities." As a result, the coalition argues that "[i]t would be irresponsible for Congress to allow the Yucca Mountain Project to continue without a thorough review of the causes and consequences of contractor conflict of interest that have recently been brought to light."

DOE Pushes for "Expedited" Cleanups

On January 31, U.S. Secretary of Energy Spencer Abraham announced that DOE will seek $6.7 billion for its environmental management program in fiscal year 2003 - a substantial increase over the current $6 billion budget - in an effort to accelerate remediation. The funding increase is targeted for a new $800 million "expedited cleanup account" that would be available to sites that develop accelerated remediation plans with measurable gains in addressing cleanup and risks.

Goals of the expedited cleanup plan, as outlined by Abraham, include

- to eliminate significant health and safety risks as quickly as possible,
- to review remaining risks on a case-by-case basis while simultaneously working with state and local officials to develop remediation strategies, and
- to streamline cleanups to achieve real progress rather than routine maintenance.

Abraham cited successful cleanup acceleration efforts at Fernald and Rocky Flats as models for the program.

The expedited cleanup plan appears, in part, to be an attempt to get states to reconsider existing cleanup agreements by focusing greater resources on the most severe contamination problems and setting risk-based solutions for secondary problems. This is necessary, according to Abraham, because DOE had erred in the past by accepting cleanup milestones that were not realistic or achievable. The result was a "lack of trust" between DOE site officials and regulators overseeing the sites.

The Alliance for Nuclear Accountability, a coalition of local DOE watchdog groups, is not pleased with the expedited cleanup plan. "The $800 million 'expedited cleanup account' is effectively a bribe to lure states and sites to agree to renegotiate binding legal agreements about DOE's obligations, potentially reducing environmental protections."

DOE Increases WIPP Shipments to Meet Cleanup Commitments

The U.S. Department of Energy recently announced that it is committing an additional $12 million to accelerate shipments of transuranic waste to the Waste Isolation Pilot Plant (WIPP) in New Mexico. The additional funds will allow a 50 percent increase in weekly shipments to the facility, which the department anticipates will allow it to

meet its cleanup commitments at the Idaho National Engineering and Environmental Laboratory (INEEL) and the Rocky Flats Environmental Technology Site in Colorado. The additional money will also be used to accelerate waste shipments from the Savannah River Site in South Carolina.

"This marks a new phase in WIPP operations," said Energy Secretary Spencer Abraham about the additional funding. "Increasing shipments will help us clean up the environment at our facilities more quickly, and also ensures that we can act on our commitments to safely ship transuranic waste out of the state of Idaho and to close Rocky Flats as soon as possible."

Since WIPP opened in March of 1999, DOE has sent approximately 500 shipments of waste to the facility and disposed of more than 13,900 drums of defense generated transuranic radioactive waste generated by the research and production of nuclear weapons. DOE is legally committed to ship 3,100 cubic meters of transuranic waste from INEEL by December 31, 2002. DOE has set a 2006 closure goal for the Rocky Flats facility.

DOE plans to dispose of approximately 100,000 drums of transuranic waste at the WIPP facility over its 35 year operating life.

DOE Issues Draft EA re Off-Site LLRW Shipments from Oak Ridge Facility

The U.S. Department of Energy has issued a draft environmental assessment finding that there will be no significant impacts from shipping low-level radioactive waste from its Oak Ridge, Tennessee facility to off-site treatment or disposal facilities. DOE plans to ship the waste off-site because Oak Ridge does not have sufficient capacity to dispose of the large volumes of legacy and operational wastes located at the facility. According to DOE estimates, as much as 7,700 cubic meters per year of operational waste may be produced at Oak Ridge over the next 20 years. Accordingly, DOE is looking at other DOE sites, as well as commercial facilities, for alternative treatment and disposal options.

Other DOE sites that may take some of the Oak Ridge waste include the Nevada Test Site; the Hanford, Washington reservation; and the Savannah River, South Carolina site. Commercial sites, including the Envirocare of Utah facility and Waste Control Specialists' site in Texas, are also being considered.

In the environmental assessment, DOE evaluated the potential effects of transporting the Oak Ridge waste to off-site facilities based on a 20-year life cycle. An earlier draft of the environmental assessment was reviewed by National Environmental Policy Act coordinators in states through which proposed rail or highway shipments would pass. Comments from these NEPA officials were incorporated into the current draft of the environmental assessment.

DOE accepted public comments on the draft assessment until January 13, 2002.

ALJ Finds Contractor Employee Protection Program Does Not Cover Actions by Department Officials

A recent ruling issued by the Director of the U.S. Department of Energy's Office of Hearings and Appeals found that a subcontractor who claims that DOE officials retaliated against him for raising safety concerns can not file a complaint against the department under DOE's contractor employee protection program. Whistleblower protections afforded under that program, according to the ruling, only apply to retaliatory threats by DOE contractors.

The case was filed on February 16, 2001 by Ronald Timm, President of Reta Security—a company

hired by Science Application International Corporation (SAIC) in 1997 to help DOE's Office of Safeguards and Security to evaluate security plans at various DOE sites. Timm alleges that department officials retaliated against him by threatening to reduce his work load when, during the next two years, he repeatedly raised concerns about serious deficiencies in site security plans.

The October 25, 2001 ruling by the Office of Hearings and Appeals dismissed Timm's complaint due to a lack of jurisdiction since the alleged discrimination was by DOE officials, not SAIC. The department's contractor employee protection program, according to the decision, does not cover alleged retaliation by DOE officials. In so ruling, the Office of Hearings and Appeals stressed that "DOE has consistently articulated the scope of [the employee protection program] as including actions by DOE contractors only." Accordingly, the term "employer" is defined to mean only "an entity in the contractor chain, not the DOE."

The decision also pointed out that "nowhere in [implementing regulations for the employee protection program], its history or its preamble is the DOE mentioned as a potential litigant." As such, "were the [Office of Hearings and Appeals] to find in favor of the complainant, [the Office of Hearings and Appeals] would lack the authority to order the DOE to do anything with regard to remedy in this case."

DOE's Metal Recycling Ban to Remain in Place Pending Outcome of PEIS

The U.S. Department of Energy says it will not lift its current ban on the recycling of scrap metals from nuclear facilities until a programmatic environmental impact statement (PEIS) begun last summer is completed.

The department came under heavy fire in mid-December when several environmental groups released a draft internal memo to Energy Secretary Spencer Abraham in which three senior DOE managers argued that it is safe to resume the recycling of scrap metal if it contains no residual surface radioactivity and if it is known not to have been contaminated by any department operations. In addition, the memo outlined rules and screening procedures for the sale of recycled scrap metals. The memo said that the department should resume recycling scrap metals because the moratorium on doing so is costing DOE sites millions of dollars in storage and disposal costs, as well as in lost revenues. In support of lifting the current ban, the memo pointed out that in the five years prior to the moratorium, DOE had recycled 114,000 metric tons of scrap metal without causing any known health or environmental concerns.

A department spokesperson, however, says that the memo is moot and that a decision on whether or not to lift the ban will be based on the outcome of the PEIS and public opinion. The PEIS is expected to be finished this coming summer.

The recycle moratorium was put into place by the Clinton administration in response to concerns by consumer advocates and the metals industry that possibly tainted recycled metals could be put into general commerce. The steel industry also expressed concerns about the process.

Audit Chamber Warns Russia's Facing Waste Crisis

The Russian Audit Chamber recently issued a press release warning that the country is facing a nuclear waste storage and disposal crisis. Russia has accumulated waste with a combined radioactivity of more than 6 billion curies over the past 50 years, according to the release, but does not have anywhere to dispose of it. Moreover, the Audit Chamber warned that the country's system of nuclear storage facilities is on the verge of collapse due to a lack of government attention, inadequate funding, and failed legislation. According to the chamber, "[m]ost of the storage facilities are nearly full, and the equipment is in need of urgent modernization and repair."

The Audit Chamber will send a report of its investigation into Russia's waste storage and disposal situation to both houses of the Russian Parliament, the Cabinet, the Nuclear Energy Ministry and the Finance Ministry.

U.S. Nuclear Regulatory Commission

NRC Seeks Public Comment re Use of Alternative Dispute Resolution

The U.S. Nuclear Regulatory Commission is seeking public comment on the possible use of alternative dispute resolution (ADR) in its enforcement policy. ADR—which has been used successfully by the U.S. Environmental Protection Agency, the U.S. Navy, and the Federal Energy Regulatory Commission—involves the use of a neutral third party to resolve conflicts. Facilitated discussion, mediation, fact-finding, mini-trials and arbitration can be used in ADR.

Two issues which the NRC must consider were it to use ADR, among others, are (1) the point at which its use would be appropriate in the enforcement process and (2) potential implications for the confidentiality of settlement discussions in a process that has generally been conducted openly.

NRC plans to publish a list of questions for public comment on the potential use of ADR in an upcoming issue of the *Federal Register*. Written comments on the use of ADR may be sent to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T-6D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or may be sent via e-mail to mtl@nrc.gov.

NRC to Hold Regulatory Conference in D.C.

The U.S. Nuclear Regulatory Commission will host its 14th Annual Regulatory Information Conference in Washington, D.C. from March 5 to 7. The conference, which is sponsored by the Office of Nuclear Reactor Regulation, is intended to provide a forum for discussing regulatory issues with the nuclear industry. Topics slated for discussion include the commission's revised oversight process, risk-informed regulations, and license renewal and decommissioning, among others. The agenda for the conference was developed using suggestions from last year's attendees and comments invited by NRC on its web site. NRC Chair Richard Meserve will deliver the keynote speech. All the other Commissioners will conduct plenary sessions during the conference.

Additional information about the conference, which is open to the public, can be obtained on NRC's web site at http://www.nrc.gov/reactors/operating/regs-guides-comm/ric/2002/index.html. A complete agenda will be posted to the site, once finalized.

NRC Renews Georgia's Hatch Nuclear Power Plant License

Following extensive environmental and safety reviews, the U.S. Nuclear Regulatory Commission recently renewed the operating license of the Edwin I. Hatch nuclear power plant, Units 1 and 2, near Baxley, Georgia, for an additional 20 years. Southern Nuclear Operating Company, which owns the plant, submitted a renewal application on February 29, 2000. The operating license for the Hatch Unit 1 was set to expire on August 6, 2014. Unit 2's operating license was set to expire on June 13, 2018.

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.

NRC has also approved license extension requests for six reactors on three sites—the Calvert Cliffs Nuclear Power Plant near Lusby, Maryland; the Oconee Nuclear Station near Seneca, South Carolina; and the Arkansas Nuclear One plant. (See *LLW Notes,* May/June 2000, p. 25 and March/April 2000, p. 41.) NRC is currently processing license renewal requests for fourteen other reactors at

seven sites. Several individuals, including the Senior Vice President and Chief Nuclear Officer of the Nuclear Energy Institute, have recently been quoted as predicting that most, if not all, nuclear reactors will apply for license extensions in the coming years. (See *LLW Notes,* March/April 2001, p. 14.)

NRC Guidance Document

NRC approved three guidance documents in July 2001 which describe acceptable methods for implementing the license renewal rule and the agency's evaluation process. (See *July/August 2001,* p. 26.) The documents are intended to, among other things, speed up the renewal process.

In addition, an existing NRC document—"Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (NUREG 1437)—assesses the scope and impact of environmental effects that would be associated with license renewal at any nuclear power plant site. NRC staff plan to prepare supplements to this document that will be specific to the Catawba and Peach Bottom units with information gathered at the October and November meetings. The supplements will include recommendations regarding the environmental acceptability of the license renewal actions.

NRC to Broadcast Commission Meetings Over the Internet

The U.S. Nuclear Regulatory Commission has redesigned its website to improve public access to information, allow easier navigation of the site, and provide greater visibility to frequently accessed information. The new site will include real-time broadcasts of commission meetings open to the public over the Internet. In order to observe commission meetings, users will need a computer equipped with a sound card and speakers, access to the Internet, and Real Networks Player Software—which can be downloaded free of charge from the NRC's webpage. Detailed information on how to access the meetings are provided on the website, which also provides the opportunity for public comment.

Other features of the website include information on (1) the NRC's mission, (2) activities regarding reactors, nuclear materials and radioactive waste, (3) public meetings schedules, (4) news releases, (5) NRC regulations and rulemakings, and (6) how to report a safety concern.

NRC temporarily closed down its website following the September 11 terrorist attacks in Washington and New York out of concern that information on the site may be used by terrorists. (See *LLW Notes,* September/October 2001, pp. 16 – 17.) In addition, all nuclear facilities were immediately placed on high security alert following the attacks. As reviews of information on the site are completed, NRC is restoring information incrementally in the new format.

Information on the redesigned website can be found at www.nrc.gov.

Terrorist Alert Issued: Nuclear Power Plants/ Facilities Among Targets

In late January, U.S. intelligence agencies issued an internal alert of plans for additional terrorist attacks on American soil. Amongst the identified targets for such an attack are nuclear power plants, U.S. Department of Energy nuclear facilites, and other nuclear facilities. Indeed, President George W. Bush revealed in his State of the Union address that plans of U.S. nuclear power plants have been found at terrorist bases in Afghanistan. Bush said, "We have found diagrams of American nuclear power plants and public water facilities, detailed instructions for making chemical weapons, surveillance maps of American cities, and thorough descriptions of landmarks in America and throughout the world."

In response to the alert, the U.S. Department of Energy has increased security at its nuclear-weapons facilities. The U.S. Nuclear Regulatory Commission has also advised nuclear power plants to be on heightened security.

To Obtain Federal Government Information

by telephone

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

by internet

- NRC Reference Library (NRC regulations, technical reports, information digests, and regulatory guides). ..... **www.nrc.gov/NRC/reference**

- 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). ..... **listserver@unixmail.rtpnc.epa.gov**

- EPA • (for program information, publications, laws and regulations) ..... **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**

- GAO homepage (access to reports and testimony) ..... **www.gao.gov**

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

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

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

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Pennsylvania *
West Virginia

Atlantic Compact
Connecticut
New Jersey
South Carolina •

Central Compact
Arkansas
Kansas
Louisiana
Nebraska *
Oklahoma

Central Midwest Compact
Illinois *
Kentucky

Northwest Compact
Alaska
Hawaii
Idaho
Montana
Oregon
Utah
Washington *
Wyoming

Midwest Compact
Indiana
Iowa
Minnesota
Missouri
Ohio
Wisconsin

Rocky Mountain Compact
Colorado
Nevada
New Mexico

Nothwest accepts Rocky Mountain waste as agreed between compacts

Southeast Compact
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Florida
Georgia
Mississippi
Tennessee
Virginia

Southwestern Compact
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