NWSC
Nuclear Waste Strategy Coalition

January 16, 2009

NWSC Update

Congressional Activities

Nuclear Waste Disposal Program (Program): Fiscal Year (FY) 2009 funding for the Program is still uncertain. Currently, the Program is being funded under H.R. 2638, at the FY 2008 funding level of $386.4M -- - $185.4M from the Nuclear Waste Fund (NWF) and $201M for defense nuclear waste disposal (DNWD). Rumors are that funding for the Program from the NWF will be reduced by approximately $100M and the defense program funding maybe reduced too. However, Congress has allocated $25M for defense waste disposal in the Authorization Bill.

If $100M is cut from the FY 2008 appropriations level and approximately $85M is appropriated for FY 2009, it will be the lowest amount ever appropriated from the NWF, other than in FY 2002 when $95M was appropriated from the NWF. Approximate appropriations of $286M for FY 2009 represents the lowest amount overall appropriations since 1984. The FY 1984 appropriations were $275.9M and all funds were appropriated from the NWF.

The Administration requested for the Program $494.7 million for FY 2009 -- $247.3M from the NWF and $247.4M for DNWD. If $85M is appropriated from the NWF for FY 2009, it will be $162.3M below the requested level by the Administration and $669M below the annual payments paid into the NWF. The nation's ratepayers pay more than $754M into the NWF.

The FY 2008 appropriations also provides the State of Nevada and affected units of local governments $15M from the NWF to conduct scientific oversight and participate in the license application activities. It is my understanding that these funds will not be reduced.

Nuclear Regulatory Commission (NRC): The NRC requested in its FY 2009 budget $37.3M from the NWF and the House added another $36M for the review of the Department of Energy's (DOE) license application. However, the FY 2008 budget provides only $29M.

Funding below the requested levels by DOE and the NRC will have an adverse impact to the overall progress of the Program. Some of the consequences in lack of appropriations would:

- jeopardize interactions between the DOE and NRC's review license application process;
- delay the scheduled 2020 start-up date;
- force DOE to reduce its workforce at the Yucca Mountain site and elsewhere;

- delay repository site engineering and infrastructure, as well as the Nevada rail construction and related transportation capital acquisitions;
- disrupt the DOE clean-up program in Hanford, Idaho and Savannah River, as well as agreements with states that currently store defense material.

Further, the fate of the disposal program maybe even worse in the FY 2010 appropriations. It has been reported that the incoming Administration will request "little if anything at all" in its FY 2010 budget.

House Energy and Commerce Committee: The House installed Representative Henry Waxman (D-CA), as Chairman of the Committee. And, Representative Edward Markey (D-MA), was appointed Chairman of the Energy and Air Quality Subcommittee. Both Chairmen oppose the nuclear waste disposal program.

Department of Energy

Secretary of Energy Nominee: Steven Chu, PhD. was warmly greeted by members of the Senate Energy and Natural Resources Committee during the Tuesday, January 13 nomination hearing. The Committee more or less confirmed that there won't be any serious opposition to his appointment as Secretary of Energy after the new President is sworn in on January 20.

However, Senator Bingaman politely questioned Dr. Chu how his role will be affected with regards to establishing an energy policy and whether he will "be able to have a strong voice" since Carol Browner will be running the new White House Office of Climate and Energy Policies.

Throughout the hearing, Dr. Chu was non-committal with regards to the fate of the nuclear waste disposal program and funding except when he commented that DOE has a legal obligation and will use the best scientific analyses to provide safe disposal of spent nuclear fuel (SNF). He further stated that he is supportive of nuclear energy since it is 70% carbon free and generates 20% of the U.S. electricity. When asked about the stranding of SNF at plant sites and reprocessing, Chu stated that he is supportive of recycling provided it is proliferation resistant. When it came to the SNF issue, he stated that, "we don't need a solution today or 10 years from today to find a solution since spent fuel is safely stored."

As Director of Lawrence Berkeley National Laboratory, Chu co-signed with nine other DOE national laboratories directors a white paper titled, "A Sustainable Energy Future: The Essential Role of Nuclear Energy." The directors defined the issues and nuclear industry and government roles for expanding the number of nuclear power plants. The issues covered include relicensing current nuclear power plants; deploying advanced light waste reactors; and developing an integrated approach to manage SNF and high-level radioactive waste (HLRW).

The paper further states that the design and operation of the permanent repository may evolve as knowledge advances. The Yucca Mountain repository was envisioned at a time when the country did not have plans for significant nuclear energy expansion. At that time, spent fuel reactor was considered as "waste"; thus, direct disposal was chosen as the approach. In the long term, given the envisioned expanded role of nuclear energy, it is both appropriate and timely to reconsider the sustainability of the fuel cycle and to recognize that even with recycling, a geologic repository will be required. In the directors' opinion, research and development must be conducted, and a comprehensive evaluation of disposition pathways must be performed.

In addition, the "traditional once-through fuel cycle will not be sustainable," as nuclear energy use expands; however, maximizing the benefits of nuclear energy and guidance for methods to establish a "closed" fuel cycle will ultimately be necessary.

Dr. Steven Chu is a Nobel-Prize physicist and highly regarding in the scientific field. He favors increased use of renewable energy sources and the creation of millions of green energy jobs. He is married to Jean Chu and has two grown sons.

Second Repository Report: In a December 2008 report to "The President and The Congress by the Secretary of Energy on the Need for a Second Repository," DOE recommended that the capacity limit of 70,000 metric ton limit at the Yucca Mountain repository be removed by Congress or the federal government would have to develop a second repository.

The 1982 Nuclear Waste Policy Act, as amended, (NWPA) sets the statutory capacity limit for Yucca Mountain. According to Secretary Bodman, "this statutory limit was not based on any technical considerations, and the repository layout at Yucca Mountain can be expanded to accommodate at least three times the amount of spent fuel allowed under the current arbitrary cap."

DOE projects that SNF from operating plants will total approximately 130,000 tons. Expanding the capacity for disposal of spent fuel at the permanent repository will give the government more time to evaluate the need for additional repository site, determine how much additional capacity might be required, and assess other management approaches.

Interim Storage of Spent Nuclear Fuel from Decommissioned Sites Report: The House Appropriations Committee directed DOE in a report that accompanied the Consolidated Appropriations Act of 2008, to develop a plan to take custody of SNF currently stored at decommissioned sites to both reduce costs that are borne by the taxpayer and demonstrate that DOE can move forward in the near-term with some element of the NWPA. The report asked that DOE take into consider consolidation of SNF from decommissioned reactors either at an existing federal site, at one or more existing operating reactor sites, or at a competitively-selected interim storage site. The report further directed DOE to engage the 11 sites that volunteered to host Global Nuclear Energy Partnership facilities as part of this competitive process.

According to DOE, it reviewed its authority to accept SNF from decommissioned sites for interim storage and concluded that it has no such authority unless Congress pass legislation to eliminate the limitations in the NWPA on taking commercial SNF for interim storage prior to the opening of the permanent repository. In addition, in order to undertake interim storage in a timely manner, legislation would be needed to:

i) Direct DOE to take SNF from decommissioned commercial nuclear power reactors.

ii) Establish an expedited siting process.

iii) Authorize DOE to construct and operate the facility under its regulatory authority, or, if the facility were to be constructed and operated under a NRC license, to provide for an expedited siting and licensing process.

In addition, such legislation should also provide for funding reform to ensure that DOE would have access each year to adequate funds from the NWF to carry out such activities. Reliable and sufficient funding is necessary for the simultaneous development of the permanent repository, an interim storage facility, and transportation of SNF to both facilities.

DOE concluded that without legislation, a demonstration could not be completed in the near term and would not reduce taxpayer costs for waste disposal. Assuming expeditious resolution of a number of complex statutory, regulatory, siting, construction, and financial issues, if development were to begin in 2009, such a facility might begin operations in 2015 at the earliest, and complete operations by shipping commercial SNF from the interim storage facility to Yucca Mountain, between 2025 to 2028, at a cost of $743 million. Consequently, it would increase the total system life cycle costs of the repository program under the NWPA.

The report further stated that ongoing liability associated with DOE's delay in waste acceptance (currently $11 billion, assuming that operation of the permanent repository begins in 2020) would not be reduced in any significant way and could be increased if directing the priority acceptance of SNF from the ten decommissioned commercial sites resulted in additional litigation from contract holders with operating reactors. If Congress authorizes DOE to initiate interim storage for the consolidation of the SNF from decommissioned sites and amends the NWPA interim storage siting provisions, DOE would consider either an existing federal site, one or more existing operating commercial nuclear power reactors, or a competitively selected interim storage site, engaging the sites that have volunteered to host Global Nuclear Energy Partnership facilities as part of the competitive process.

According to DOE, that authorization and funding by Congress to perform interim storage would provide DOE an option in addition to Yucca Mountain to allow the Department to begin to meet its contractual obligations with the owners of commercial SNF. This option could prove beneficial should Yucca Mountain experience delays due to licensing, litigation, lack of funding, or other causes, but only if the enabling legislation adequately addresses the issues discussed in this report.

DOE did not take into consideration in its report to contract for services at private storage facilities to meet its legal and contractual obligations, nor did it take into consideration to discuss the interim storage option with communities in the U.S. interested in hosting interim storage facilities or companies that are interested in building such facilities.

Temporary Land Withdrawal Extension: DOE successful extended a 12-year temporary land withdrawal of public land in Nevada from the U.S. Bureau of Land Management (BLM) to maintain the physical integrity of the Yucca Mountain site.

This action is significant as without an extension the temporary withdrawal expires in 2010. This is almost two years prior to the earliest date the Yucca Mountain repository license application review is expected to be complete. Without this extension, expiration would have a potential negative consequence on the overall disposal program.

The temporary land withdrawal includes more than 4,200 acres of public land in Nye County, NV. Extending the withdrawal would provide the NRC additional time for the license application review process. Should the NRC award the repository license, Congress can then enact legislation to permanently withdraw land that will be needed for the permanent repository development.

Meanwhile, DOE is hopeful to receive soon from BLM a grant for railroad right-of-way within the Nevada Rail Line. BLM has set certain stipulations that DOE must comply with in order to construct, occupy and operate within the Nevada Rail corridor before it hands down it decision.

Surface Transportation Board (STB).

The DOE has yet to receive a Certificate of Public Conveyance from STB to construct a rail line from Caliente to the Yucca Mountain site.

The Board held a public hearing on Thursday, December 4 in Las Vegas, Nevada, regarding DOE's application. The STB does not normally hold public hearings when reviewing these applications but Charles Nottingham, Chairman, STB, recommended to the two other board members to a hold public hearing after meeting with Senator Harry Reid's staff.

However, Dr. Baughman reported that the STB is compelled to grant the certificate of conveyance to DOE, but it will be heavily conditioned to address issues raised at the December 4 hearing.

Nuclear Regulatory Commission (NRC)

License Application: The NRC's Atomic Safety and Licensing Board Panel (ASLB) have established three boards to consider admissibility of contentions in the adjudicatory hearing over the proposed Yucca Mountain permanent repository.

Each board consists of three judges, two with legal expertise and one with technical expertise. Combined, the boards will consider and rule upon the admissibility of approximately 320 proposed contentions filed by 12 petitioners. These boards will consider only the standing of the petitioners and the admissibility of the contentions; additional boards will be established to rule on any contentions that are admitted for a hearing.

Procedures for the standing and admissibility phase of the hearing were set out in an ASLB order issued on Friday, January 16. Petitioners will file their pleadings, responses and replies with all three boards, which will then allocate the contentions for consideration.
Petitioners include Nuclear Energy Institute (NEI), the states of Nevada and California, several Nevada counties, and Native American tribal groups. Two other Nevada counties filed requests to participate as interested government bodies.

NEI's petition, seeking full party status, was accompanied by nine contentions identifying the issues the industry seeks to address. In its Petition to Intervene, NEI stated that, in general, it supported the issuance of a license for the Yucca Mountain permanent repository. In raising contentions, NEI took issue with certain limited aspects of the DOE license application and is seeking to improve DOE's design of the facility.

DOE and NRC staff has until February 11, 2009 to answer these contentions and responses to those answers are due within two weeks. The boards expect to hold oral arguments on standing and admissibility sometime this spring at the NRC's Las Vegas Hearing Facility.

Annual Regulatory Information Conference (RIC): The NRC will hold its 21st annual RIC March 10-12, at the Bethesda North Marriott Hotel, Md. It is anticipated more than 2,300 people are expected to attend, including representatives from more than 25 foreign countries, members of Congress and the nuclear industry.

The conference brings together NRC staff, plant owners, nuclear materials users and other interested stakeholders to discuss nuclear safety topics and significant and current regulatory activities. Topics at this year's RIC include: construction and licensing of new nuclear power plants; advanced reactor designs; security; safety research; domestic and international nuclear power plant operating experience and technical issues such as digital instrumentation and control and fire protection; operator training; and safe disposal of nuclear waste.

The conference is free and open to the public. The RIC is a joint presentation of the NRC's Offices of Nuclear Reactor Regulation and Nuclear Regulatory Research. Those interested in attending may register at the RIC Web site and obtain a copy of the conference agenda at this address: www.nrcric.org. Early registration is encouraged; however, onsite registration will also be available during the conference.

Decommissioning Funds Reporting Requirements: The NRC issued to all holders of operating licenses and combined licenses for nuclear power reactors a regulatory issue summary (RIS) revision to clarify the reporting requirements of 10 CFR 50.75(f)(1) and 50.75(f)(2), "Reporting and Recordkeeping for Decommissioning Planning," regarding the status of decommissioning funding assurance.

In 1999, some licensees reporting under 10 CFR 50.75(f) did not distinguish between estimates of costs to complete decommissioning required by the NRC (radiological decommissioning) and other costs associated with cleaning up the site. Therefore, NRC staff issued a RIS to clarify for licensees the need to preserve the distinction between radiological decommissioning cost estimates and all other decommissioning cost estimates in the reports they must submit to the NRC.

Recently, NRC staff has learned that some licensees also reporting under 10 CFR 50.75(f) have provided figures for the accumulation of decommissioning funds that included funds accumulated for purposes other than to meet the NRC's decommissioning requirements. Further, the staff also issued the RIS to clarify for licensees the need to preserve the distinction between funds accumulated for radiological decommissioning, which licensees are required to report, and funds accumulated for other purposes.

Federal regulations code requires nuclear power reactor licensees to report decommissioning funding assurance information to the NRC at least once every 2 years. The NRC received the first reports on March 31, 1999.

To obtain further details, visit: www.nrc.gov.

Nuclear Waste Technical Review Board (NWTRB)

The NWTRB will be holding a meeting on Wednesday, January 28, 2009 in Las Vegas, NV. The purpose of the meeting is to focus on the permanent repository tunnel stability and issues related to "burn-up" credit – burn-up is the amount of energy produced in a nuclear reactor per unit weight of nuclear fuel.

Topics for discussion -- program and project overview; science update; drift stability; effective thermal conductivity of drift collapse material; waste package (TAD) and clad temperature in the presence of drift

collapse material; criticality – basis for exclusion and role of burn-up credit; direct disposal of duel purpose canisters – options for assuring criticality control; use of burn-up credit when performing criticality analyses for spent fuel transportation packages; and, welding-closure cell update.

To obtain further details, visit: www.nwtrb.gov.

Other

Congratulations to Commissioner David Boyd who was appointed Chairman of the MN Public Utilities Commission.

Next Telephone Conference Call

Please note that the next NWSC/NEI/NARUC telephone conference call will be held on **Wednesday, January 21, 2009, 10:00 a.m. ET, (9:00 a.m. CT)**.

PLEASE SHARE THIS MATERIAL WITH OTHER INTERESTED PARTIES IN YOUR ORGANIZATION