

NUCLEAR WASTE FUND

## NEI, NARUC sue to stop fee payments

**T**HE NUCLEAR ENERGY Institute and the National Association of Regulatory Utility Commissioners (NARUC) have filed lawsuits in federal court seeking the suspension of the fees paid into the Nuclear Waste Fund (NWF) for the federal government's spent nuclear fuel management activities.

NARUC filed its petition on April 2, and NEI, along with 16 of its member companies, filed its suit on April 5. Both cases were filed in the U.S. Court of Appeals for the District of Columbia Circuit.

NEI's lawsuit calls on the court to direct the Department of Energy to suspend the collection of the one-tenth of a cent per kilowatt-hour surcharge that consumers pay in their monthly electric bills, pending the DOE's compliance with provisions of the Nuclear Waste Policy Act of 1982. The legislation requires that the DOE conduct an annual "fee adequacy review" for the spent fuel management program.

NEI argued in a letter to Energy Secretary Steven Chu last July that the DOE has failed to properly account for the effect that the planned termination of the Yucca Mountain repository project will have on the program's financial needs, and that fee collections should be suspended until a spent fuel management program is defined and properly evaluated. Chu, in a letter to NEI last October, declined to suspend the fee, which amounts to about \$760 million in annual revenues for the NWF.

The NWF, which was established in 1982 by Congress to pay for the transportation and permanent disposal of commercial nuclear waste, has a balance of more than \$22 billion, according to NEI. In addition, NARUC said, the fund has earned approximately \$13.5 billion in interest. The Obama administration's budget request for fiscal year 2011, however, does not include any funding for the spent fuel management program.

By law, the electric companies that operate the 104 reactors in the United States have contracts with the DOE for spent fuel management. Under the terms of the contracts, the DOE was to begin removing spent fuel from nuclear power plant sites in 1998.

NEI was joined in the litigation by Florida Power & Light Company; NextEra Energy Seabrook LLC; NextEra Energy Duane Arnold LLC; NextEra Energy Point Beach LLC; Omaha Public Power District;

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PSEG Nuclear LLC; Indiana Michigan Power Company; Energy Northwest; PPL Susquehanna LLC; The Detroit Edison Company; Nebraska Public Power District; Northern States Power Company; Kansas Gas and Electric Company; Kansas City Power & Light Company; Kansas Electric Power Cooperative; and Wolf Creek Nuclear Operating Corporation.

NARUC's petition, meanwhile, centers around the DOE's October 2009 rejection of a request from NARUC to suspend pay-

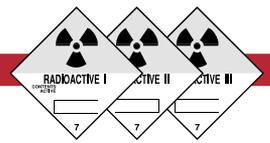
ments into the NWF. The fees are assessed to nuclear utility companies and passed through to ratepayers by NARUC's public service commission members, based on the federal government's promise that the waste would be moved and safely disposed of by the DOE, "most likely at the Yucca Mountain repository in Nevada," according to a NARUC statement.

In 2008, the DOE filed an application with the Nuclear Regulatory Commission for a license to operate the repository. "But

## Waste Management Briefs

**A TANK HOLDING RADIOACTIVE LIQUID WASTE AT SRS** has moved closer to final closure, the Department of Energy announced on March 23. Savannah River Remediation LLC, the DOE's liquid waste contractor at the Savannah River Site, on March 15 completed a \$1.4-million project that involved refurbishing an internal purge ventilation system, as well as removing and replacing a 50-foot-long mixing pump located within the 750 000-gallon waste tank, known as Tank 5. Funding for the work was provided under the American Recovery and Reinvestment Act. The DOE said that as many as 50 Recovery Act workers were involved in the project, for which planning and preparation began in October 2009. The work itself was performed in December and January during some of the worst winter weather ever experienced in South Carolina, according to the DOE. After the project and other tank system modifications are complete, the next significant step toward closing Tank 5 can occur later this year, the DOE said. Fifty-one waste tanks were constructed at SRS in 1953 and placed in service in 1959. The DOE is working to close them as part of the cleanup of the site.

**ONLY NUCLEAR ENERGY DELIVERED BY GENERATION IV IFRs** "can rescue the world from energy disaster," according to the 24-page report, *Energy Independence Day: July 4, 2040*, by author Joseph M. Shuster, in cooperation with the Science Council for Global Initiatives (<[www.thesciencecouncil.com/](http://www.thesciencecouncil.com/)>). The report offers what it calls "a realistic energy mix," complete with cost estimates and a timetable for achieving the goal of energy security for the world by 2040. As explained in the report, the use of coal and oil as energy sources would be eliminated, with the energy mix in 2040 consisting of nuclear (42 percent), wind and solar (30 percent), natural gas (12 percent), biomass, geothermal, tides, and waves (6 percent), plasma remediation (5 percent), and hydro (5 percent). The report promotes the use of integral fast reactors (IFR) because they would use the long-lived waste from the current fleet of light-water reactors for fuel. "Moreover, the residue that remains after burning this 'waste' in an IFR is far less toxic, its volume diminished, and will remain radioactive for only 200–400 years," the report says. In addition, IFRs have been designed to be proliferation resistant, the report says, and "the possibility of a reactor core meltdown has been eliminated." IFRs also can further reduce the proliferation



since taking office in January 2009,” NARUC said, “the Obama administration made clear their intent to shutter the project and convene the Blue Ribbon Commission on America’s Nuclear Future to recommend a new disposal strategy.”

With the administration effectively zeroing out funding for the project in its budget proposals, NARUC last July asked the DOE to suspend payments into the NWF, saying that since the project was stalled, ratepayers should not continue to be charged for it. In response, NARUC said, the DOE rejected the request, asserting that all fee payments to the NWF are essential.

In its lawsuit, NARUC said that the DOE’s rejection is an actionable determination that can be challenged in court. “Since 1983, the nation’s nuclear utility consumers have faithfully contributed almost \$20 billion into the Nuclear Waste Fund, with the expectation that the spent nuclear fuel would be safely moved and

stored,” said NARUC President David Coen. “Unfortunately, the federal government has failed to live up to its end of the bargain. We do not take this action lightly;



Coen

we are hopeful that the newly appointed Blue Ribbon Commission on America’s Nuclear Future will chart a workable path. But until that time, there is no need to assess these fees on our consumers, particularly when we have no idea what solutions the commission will suggest, and whether they will be implemented.”

NARUC is the national association representing the state public service commissioners who regulate essential utility services such as energy, telecommunications, and water.

potential by consuming as fuel the bomb-making material that exists around the world, the report says. The report is available online at <[www.beyondfossilfools.com/](http://www.beyondfossilfools.com/)>.

#### **IT’S TIME TO ACCEPT THAT A ONCE-THROUGH NUCLEAR FUEL CYCLE**

is the only sensible option, according to the article, “Advice for the Blue Ribbon Commission,” posted March 24 on the Bulletin of the Atomic Scientists’ Web site, at <[www.thebulletin.org/web-edition/op-eds/advice-the-blue-ribbon-commission](http://www.thebulletin.org/web-edition/op-eds/advice-the-blue-ribbon-commission)>.

Written by Robert Alvarez, a senior scholar at the Institute for Policy Studies and a former senior policy adviser to the Department of Energy, the article states: “Reprocessing plants release about 15 000 times more radioactivity into the environment than nuclear power plants and generate wastes with high decay heat. Other efforts to build what is called a ‘closed fuel cycle,’ where waste is recycled and reused in reactors, have failed for 50 years. Such failure has left about 250 tons of excess plutonium stored at reprocessing plants around the world—enough for some 30 000 nuclear weapons.” The report also suggests that it makes sense to consolidate commercial dry spent fuel casks at one federal site, such as the DOE’s Idaho National Laboratory, which is already storing commercial spent fuel.

#### **A PUBLIC OPINION POLL FOUND THAT 81 PERCENT OF RESPONDENTS**

expressed concern over nuclear waste management—51 percent were “very concerned” and 30 percent were “moderately concerned.” The poll, the results of which were made public in March by Angus Reid Public Opinion, surveyed 1 010 randomly selected American adults from February 19 to February 21. Almost half of the respondents (48 percent) support building more nuclear power plants in the United States, with 21 percent saying they strongly favor this option. Conversely, a third of respondents (34 percent) are against building more plants, with 18 percent strongly against this idea. Overall, Republicans (60 percent) and Independents (52 percent) are more likely than Democrats (46 percent) to endorse building more nuclear power plants in the United States. Regarding concerns apart from nuclear waste management, 74 percent fear that nuclear technology could fall into the hands of extremists, 73 percent are concerned about the health risks to communities near nuclear power plants, and 72 percent are concerned that an accident could happen at a nuclear power plant. The poll is available online at <[www.visioncritical.com/wp-content/uploads/2010/03/2010.03.02\\_Nuclear\\_USA.pdf](http://www.visioncritical.com/wp-content/uploads/2010/03/2010.03.02_Nuclear_USA.pdf)>.