

***Resolution Regarding Guiding Principles for Legislative Changes to the Nuclear Waste Policy Act***

**WHEREAS**, The United States Congress, in the Nuclear Waste Policy Act of 1982, as amended, directed the Department of Energy to begin accepting for disposal high-level nuclear waste and spent nuclear fuel no later than January 31, 1998; *and*

**WHEREAS**, Utility ratepayers have paid over \$14 billion to the Nuclear Waste Fund, serving as the almost exclusive funding source of the nation's disposal effort; *and*

**WHEREAS**, The interests of the ratepayers and the responsibilities of State regulatory commissions are served by a prudent and focused program leading to safe, timely, cost-effective and environmentally sound storage and disposal; *and*

**WHEREAS**, The fair share of the cost of defense waste disposal has not been collected; *and*

**WHEREAS**, The NARUC sees the need for fundamental improvement of the management, quality, delivery and cost-effectiveness of the Federal program; *and*

**WHEREAS**, The statutory performance date, upheld by the U.S. Court of Appeals for the District of Columbia Circuit, for DOE to begin accepting spent nuclear fuel has passed, as of February 1, 1998; *and*

**WHEREAS**, DOE failure to live up to its obligations are causing State and local governments and utilities to incur costs that could have been avoided; *and*

**WHEREAS**, Quarterly payments by utilities into the Federal Nuclear Waste Fund have been approved by State rate regulators on the premise that the Federal government would fulfill its obligation; *and*

**WHEREAS**, The NARUC considers the following to be critical to safe, environmentally sound, timely and cost-effective development of an integrated spent fuel management system and has stated its position on these issues in previously adopted resolutions:

- a) DOE action to meet its January 31, 1998 obligation to accept spent nuclear fuel as soon as possible;
- b) Establishment of a comprehensive, cost effective integrated spent nuclear fuel management system that includes centralized interim storage capability;
- c) Creation of an alternative Federal budgetary mechanism for the high-level waste program; *and*

**WHEREAS**, These issues must be resolved through Congressional action; *now, therefore, be it*

**RESOLVED**, That the Executive Committee of the National Association of Regulatory Utility Commissioners (“NARUC”), convened at its 1998 Winter Meetings in Washington, D.C., adopts the following principles to guide legislative changes to the Nuclear Waste Policy Act:

## **I. PRINCIPLES CONCERNING THE DOE’S OBLIGATION UNDER THE NWPA**

- a. The Secretary of Energy shall take title and begin taking possession and removing high-level radioactive waste and spent nuclear fuel to meet its January 31, 1998 obligation as soon as possible.
- b. The Secretary of Energy shall take possession of and remove high-level radioactive waste and spent nuclear fuel in accordance with the acceptance priority ranking as required by the contracts entered into pursuant to Section 302 of the NWPA.

## **II. PRINCIPLES REGARDING INTERIM STORAGE CAPABILITY**

- a. Congress should designate the location of one above-ground, centralized, interim storage facility for spent nuclear fuel, and such site should not be limited by the location or licensing of a permanent repository.
- b. Congress should establish milestones and set a schedule for DOE relative to licensing and construction of a centralized, interim storage facility, a transportation infrastructure, and multipurpose containers and other shipping- and storage-related equipment necessary to support acceptance of spent nuclear fuel in accordance with its January 31, 1998 obligation at the earliest practicable date. This should include Congressional authorization of actions necessary to implement an expedited schedule for each of these activities, existing legislative and regulatory impediments notwithstanding, without compromising proper consideration of safety and environmental factors.
- c. Congress should direct DOE to develop the necessary infrastructure and equipment to support and implement an increased rate of acceptance of spent fuel from reactors and shall set the statutory capacity limits on the centralized interim storage facility to efficiently, effectively and economically accommodate actual storage needs.
- d. Congress should allow private efforts to proceed in the establishment of an interim storage facility.

## **III. PRINCIPLES REGARDING PROGRAM FUNDING**

- a. Congress should exempt the Nuclear Waste Fund, established under Section 302 of the Nuclear Waste Policy Act, from any budget enforcement procedures under current Federal budget laws. Expenditures from the Nuclear Waste Fund should remain subject to Congressional appropriations. A user fee approach would be acceptable.
- b. Congress should make all ratepayer funds, including those in the unobligated balance of the Nuclear Waste Fund, available to the program as needed.
- c. The overall average program fee should not exceed 1 mill per kilowatt hour.
- d. Congress should assure that a fair share of the cost of defense waste disposal is promptly determined, and that (A) all past debts are promptly made to the Nuclear Waste Fund, and (B) full payment of defense portions is made annually in the future. Ratepayer representatives should be prominently involved in the determination of this fair share.

#### **IV. PRINCIPLES REGARDING FUNDAMENTAL PROGRAM IMPROVEMENT**

- a. Congress should improve the efficiency of the licensing process of the high-level nuclear waste repository, without compromising health, safety, and environmental factors. For example, the repository license should allow for emplacement of the waste in the repository for an initial period of up to 100 years and be renewable for additional periods in order that the repository be efficiently, safely and realistically utilized. The waste should remain retrievable during at least the initial period and until it is determined that the repository may be permanently closed.
- b. Congress should encourage greater private sector participation in implementing certain aspects of the Federal nuclear waste program. Examples include management and implementation of the development, manufacture, demonstration, and deployment of the multipurpose container system; management and implementation of the development, licensing, construction and operation of the centralized interim storage facility and transportation system.
- c. If after Congressional direction and financial support, the DOE is unable to meet effectively its goals and milestones Congress should consider: 1) removing implementation authority and responsibility for the Civilian Radioactive Waste Management Program from the Department of Energy and locating it in a new single purpose federally chartered corporation;

and 2) the ramifications of the changeover so that there will be no delay in the conduct of the program and achievement of program goals.

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*Sponsored by the Committee on Electricity*  
*Adopted March 4, 1998*