

Summary Report

Volume 17, Number 1 September 2010

Low-Level

Radioactive Waste

Management

Activities

in the

States

and

Compacts

Low-Level Radioactive Waste Forum, Inc.

Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts A supplement to LLW Notes

Volume 17, Number 1 September 2010

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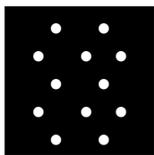
Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts is a supplement to *LLW Notes* and is distributed periodically by the Low-Level Radioactive Waste Forum, Inc. to members of its Board of Directors and to select subscribers of LLW Forum materials and publications.

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The Low-Level Radioactive Waste Forum, Inc. (LLW Forum) is an association of state and compact representatives, appointed by governors and compact commissions, established to facilitate state and compact implementation of the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985 and to promote the objectives of low-level radioactive waste regional compacts. The LLW Forum provides an opportunity for state and compact officials to share information with one another and to exchange views with officials of federal agencies and other interested parties. All interested stakeholders—including states, compacts, federal agencies, facility operators, brokers and processors, generators, associations, and others—may now join and participate in the LLW Forum.



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Key to Abbreviations

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

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Compacts and Their Host States

Appalachian Compact

Governing Body Appalachian States Low-Level Radioactive Waste Commission



Member States Delaware, Maryland, Pennsylvania, West Virginia

Compact Established The compact was established February 19, 1986, and ratified by Congress on May 19, 1988. The commission's first organizational meeting was held April 30, 1990.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Other Information On December 2, 1998, the commission amended its bylaws to allow the Chair to assume the duties of the Executive Director. The Commissioners then approved a resolution to close the commission's office, terminate all employment agreements, and transfer all records to the office of the Chair. The commission continues to exist as a legal entity. The commission holds its annual meetings in Harrisburg, Pennsylvania.

In mid-2006, the Commission conducted a survey of low-level radioactive waste generators in the Appalachian Compact to assess the potential impact of the pending closure of the Barnwell disposal facility in South Carolina to out-of-region generators. The results of this survey indicated that there would be no immediate adverse impact on the low-level radioactive waste generators in the compact once Barnwell closed to generators outside the Atlantic Compact. Almost all generators surveyed indicated that they have some type of low-level radioactive waste storage option, once needed.

In early 2010, the Commonwealth of Pennsylvania's Department of Environmental Protection (DEP) submitted comments on the blending of low-level radioactive waste to the U.S. Nuclear Regulatory Commission (NRC) in response to the agency's request found at 74 *Federal Register* 228 (Docket ID NRC 2009-0520). In general, the comments noted potential adverse impacts from the lack of disposal options for Class B and C waste, as well as Class A sealed sources, and encouraged the identification of alternative options. Specifically, DEP wrote in part as follows:

“The department would not oppose intentional blending of LLRW if it results in a change of classification of waste to a lower classification and only for access to a LLRW disposal facility and not for release to the environment. However, it is recommended that the NRC consider the following technical and policy issues as it relates to intentional blending of LLRW.”

The full text of DEP's comments, as submitted, can be found at http://www.dep.state.pa.us/brp/Nuclear_Safety_Division/CommentsOnBlendingOfWaste.pdf.

Contact Robert Summers, Deputy Secretary, Maryland Department of the Environment, 1800 Washington Boulevard, Suite 745, Baltimore, MD 21230-1720 (phone – 410/537-4187; fax –410/537-3888; bsummers@mde.state.md.us; www.mde.state.md.us)

Compacts and Their Host States (continued)

Host State: Pennsylvania

Regulatory and Program Responsibility Bureau of Radiation Protection, Department of Environmental Protection (DEP)

Siting Responsibility Pennsylvania Department of Environmental Protection (DEP)

Other Involvement DEP Low-Level Waste Advisory Committee
Appalachian States Low-Level Radioactive Waste Commission
Environmental Quality Board

Siting The low-level radioactive waste disposal facility siting project in Pennsylvania has been officially suspended as of December 31, 1998. The reasons for suspending the siting process include the dramatic reduction in the volume of the low-level radioactive waste that would have been disposed of at a regional facility in the Appalachian Compact and the availability of out-of-state disposal capacity.

DEP suspended the siting process after discussing the issue with its Low-Level Waste Advisory Committee and the Appalachian Compact Commission and receiving their support for the suspension decision. DEP will monitor national low-level radioactive waste disposal developments to insure disposal capacity will continue to be available to generators of low-level radioactive waste in the Appalachian Compact during the suspension. DEP has issued a Waste Minimization Guidance Document and will continue to promote best available practices regarding the low-level radioactive waste minimization.

Effective March 31, 2008, the Commonwealth of Pennsylvania became the 35th state to enter into an agreement with the U.S. Nuclear Regulatory Commission to assume part of the agency's regulatory authority over certain radioactive materials in the state. Under the terms of the agreement, NRC has transferred to Pennsylvania responsibility for licensing, rulemaking, inspection and enforcement activities for:

- 1) radioactive materials produced as a result of processes related to the production or utilization of special nuclear material (SNM);
- 2) uranium and thorium source materials;
- 3) SNM in quantities not sufficient to form a critical mass; and,
- 4) Accelerator-produced or other radioactive materials under NRC jurisdiction provided by the Energy Policy Act of 2005.

Approximately 700 licenses, most of which are for medical and industrial uses, have been transferred from NRC to Pennsylvania. NRC will retain jurisdiction over the regulation of commercial nuclear power plants and other facilities, as well as over federal agencies using certain nuclear material in the state. NRC will also retain authority for the review, evaluation and approval of sealed sources and devices containing certain nuclear materials manufactured in Pennsylvania and distributed throughout the country.

Licensing A projected date for submittal of a license application is not available.

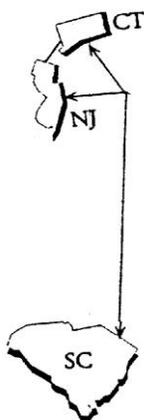
Development Costs To date: Approximately \$37 million.

Disposal Facility Operational A projected date is not available.

Contact Richard Janati, Chief of Nuclear Safety, Bureau of Radiation Protection, Department of Environmental Protection, Commonwealth of Pennsylvania, PO Box 8468, Harrisburg, PA 17105-8469 (phone – 717/787-2163; fax – 717/783-8965; rjanati@state.pa.us; www.dep.state.pa.us)

Compacts and Their Host States (continued)

Atlantic Compact



Governing Body Atlantic Interstate Low-Level Radioactive Waste Commission

Member States South Carolina, New Jersey and Connecticut

Compact Established Congress ratified the original compact (which was then called the Northeast Interstate Low-Level Radioactive Waste Compact and which then consisted of the states of Connecticut, Delaware, Maryland and New Jersey) in 1985 and the President signed it into law in 1986. Shortly thereafter, two of the four original member states—Delaware and Maryland—joined the Appalachian Compact. In 1987, the remaining member states of Connecticut and New Jersey were designated as dual host states. Then, in June 2000, South Carolina Governor Jim Hodges signed a law enabling the State of South Carolina to join the compact—with South Carolina being designated as the host state. The compact was, at that time, renamed the Atlantic Interstate Low-Level Radioactive Waste Compact.

Current Waste Management Regional waste may currently be shipped to the disposal facility in Barnwell, South Carolina. (New Jersey and Connecticut cannot ship more than a total of 800,000 cubic feet of waste to the Barnwell facility.) Pursuant to South Carolina law, non-compact waste may no longer be accepted for disposal at Barnwell after June 30, 2008. The compact continues to allow generators to ship waste to disposal facilities outside of the compact region. Accordingly, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA.

Other Information In an effort to support continued access to Barnwell, several major regional waste generators have entered into agreements with Chem-Nuclear. The agreements are intended to ensure the economic viability of Barnwell despite the small volume of waste being received from a limited customer base and to eliminate any need to request public subsidies from the extended care fund to cover essential operating costs and statutory obligations.

In this regard, in June 2009, Chem-Nuclear and the Board entered into a Memorandum of Understanding regarding operational issues and disposal rates for Barnwell. The MOU provides that annual disposal rates and/or access fees will be established at a break-even level that will yield revenues sufficient to safely and economically operate the facility and meet all statutory and regulatory obligations. Such action is consistent with the Atlantic Compact statute and South Carolina regulations that provide that the regional fee schedule shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of the Barnwell facility.

Also in June 2010, the Board approved an Alternative Rate Schedule for fiscal year 2011, which provides for two pricing options. Option B, which applies upon election by the generator, provides for a quarterly access fee in lieu of disposal charges for individual shipments. Option A, which applies to those generators who do not elect Option B access fee pricing, applies the Maximum Uniform Rate Schedule to individual shipments.

Officials continue to monitor facility operations carefully to ensure that revenues will meet operating costs as tax dollars may not be used to subsidize operating costs in the event of a shortfall.

The MOU and FY 2011 Alternative Rate Schedule are available at www.energy.sc.gov.

On September 28, 2009, New Jersey became the 37th state to enter into an agreement with the U.S. Nuclear Regulatory Commission to assume part of the agency's regulatory authority over certain radioactive materials in the state.

Contact Max Batavia, Executive Director, 1201 Main Street, Suite 1460, Columbia, South Carolina 29201 (phone – 803/737-1879; fax – 803/737-5023; mbatavia@microbyte.net; www.atlanticcompact.org)

Compacts and Their Host States (continued)

Host State: South Carolina

Regulatory Responsibility Division of Waste Management, Bureau of Land and Waste Management, South Carolina Department of Health and Environmental Control

Program Responsibility South Carolina Budget and Control Board (“the Board”), Radioactive Waste Disposal Program – owns site property, plans for post-closure custodial care, and sets prices

Other Involvement EnergySolutions, Inc./Chem-Nuclear Systems, L.L.C. (“Chem-Nuclear”)—facility operation

Current Waste Management Under current Atlantic Compact policy, waste generators (at their discretion) may ship waste for disposal to the Barnwell regional disposal facility in South Carolina or to disposal facilities located outside the compact region. (For additional information, see page 3.)

Disposal Technology and Licensing Below-grade vaults are used at the Barnwell facility. A license authorizing possession and storage of waste at the Barnwell facility was first issued on November 6, 1969. On April 13, 1971, the license was amended to authorize disposal. Chem-Nuclear has applied for a license renewal and is currently operating under timely renewal status.

Disposal Facility Operational The Barnwell facility has been in operation since 1969. (See above.)

Facility Access By letter dated May 12, 2008, the Board provided public notice that, effective July 1, 2008, it no longer authorizes importation for the purposes of disposal at the Barnwell site. The letter states that “importation” includes disposal at Barnwell “of any waste that was generated in any foreign country or any state or territory of the United States other than Connecticut, New Jersey and South Carolina” and includes the following clarifications:

- *Waste Sent for Treatment or Processing:* “Waste generated within the Atlantic Compact region that is shipped to facilities outside the Atlantic Compact region for purposes of treatment or processing en route to disposal at Barnwell is considered waste generated within the Atlantic Compact region, as long as the treatment residue is not commingled in the same package with residue generated by organizations outside the Atlantic Compact region.”
- *Decontamination Residue:* “Decontamination residue generated from radioactive materials owned by Atlantic Compact organizations may be considered Atlantic Compact waste, whether or not the decontamination process takes place within the Atlantic Compact region.”
- *Packaging or Consolidation:* “Sealed sources or other radioactive materials shipped from outside the Atlantic Compact region to waste brokering facilities within the Atlantic Compact region for purposes of packaging or consolidation are not considered wastes generated within the Atlantic Compact region. The Barnwell site may not accept radioactive material or waste that has been transported into the Atlantic Compact region and re-manifested as radioactive waste solely for purposes of establishing eligibility for disposal at the Barnwell site as Atlantic Compact waste.”

Closure Over 90% of the Barnwell site is now essentially closed. The primary activities of Phase I Decommissioning, which began in July of 2008, were completed as of December 31, 2009. Remaining activities include continuing performance objective evaluations and reviews. Routine operations waste volume is projected to be 7,000 cubic feet annually.

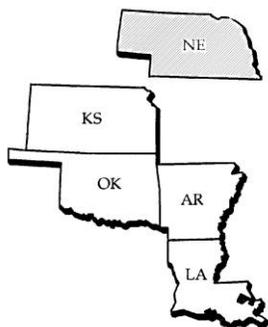
Legal On November 10, 2008, Studsvik filed a lawsuit against the Board and Chem-Nuclear for damages in excess of \$13 million alleging, among other things, that the defendants breached an agreement between the parties by providing a lower disposal rate at Barnwell to Studsvik’s competitors. The Board denies that it breached the agreement and filed a counterclaim seeking payment for outstanding invoices totaling approximately \$2.8 million. The action remains pending.

State Contact Allyn Powell, Project Manager, Energy Assurance & Rad Waste, South Carolina Budget & Control Board, Energy Office, 1200 Senate Street, Suite 408 Wade Hampton Bldg, Columbia, SC 29201 (phone – 803/737-8304; fax – 803/737-9846; apowell@energy.sc.gov; www.barnwelldisposal.com)

Operator Contact Deborah Ogilvie, Public Information Director, or Bill House, Vice President of Regulatory Affairs, Chem-Nuclear Systems, LLC/EnergySolutions, 140 Stoneridge Drive, Columbia, SC 29210 (phone – 803/256-0450; fax – 803/256-0968; dogilvie@energysolutions.com or wbhouse@energysolutions.com; www.barnwelldisposal.com).

Compacts and Their Host States (continued)

Central Compact



Member States Arkansas, Kansas, Louisiana, Oklahoma

Compact Established The compact was established May 12, 1983. The commission's organizational meeting was held June 29, 1983.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Development Costs As of January 1999: \$95.6 million. Projected total cost including construction: \$154.3 million.

Disposal Facility Operational US Ecology's license application for the property near Butte in Boyd County was denied by state regulators on December 18, 1998.

Legal Matters On December 30, 1998, five utilities filed suit in the U.S. District Court for the District of Nebraska challenging actions taken by the State of Nebraska and its officials in reviewing US Ecology's license application. The lawsuit sought, among other things, removal of the state from any further involvement in the licensing process and an award of financial damages. The Central Commission, which was originally named as a defendant to the action, realigned itself as a plaintiff. On September 30, 2002, the district court issued an opinion finding that Nebraska had breached its duty of good faith under the compact. The court entered judgment against Nebraska in the amount of \$151,408,240.37, but declined to award the commission's requested equitable relief in the form of a new, court-supervised licensing process. On August 9, 2004, the Central Compact voted 3 to 1 to accept a settlement under which the state would pay the compact commission \$140.5 million plus interest—which monies were paid on August 1, 2005, thereby amicably ending all suits and claims between the parties. The commission subsequently distributed proceeds from the settlement funds to the member states for their contributions to community improvement funds; the major generators; and US Ecology.

On March 23, 2006, the compact commission notified the major generators that its decision to retain \$5 million of the settlement funds was a "final decision" with respect to their claims "though not a final decision regarding the ultimate disposition of the settlement funds retained." Shortly thereafter, on April 25, 2006, six generators filed a lawsuit in the U.S. District Court for the District of Nebraska against the compact commission seeking, among other things, to preserve their interest in the retained funds. In January 2007, the district court dismissed the suit with prejudice after finding that "there is nothing inequitable about the Commission keeping \$5 million out of more than \$145 million" because the plaintiffs have recovered all of their principal plus interest, the Commission has an arguable need for money since it is still in existence & will continue to be for the foreseeable future, and the Commission itself suffered damages.

Other Information In July 2005, the Central Commission held a two-day meeting in Little Rock, Arkansas during which it passed various resolutions including, among other things, resolutions:

- to defer further pursuit of a regional disposal facility for the time being;
- to continue monitoring national and regional developments concerning LLRW generation and disposal needs; and,
- to direct a consultant to carry out a review of disposal needs & practices of small generators in member states.

In May 2006, the compact transferred land previously designated for a regional facility to the Village of Butte.

Contact Rita Houskie, Office Administrator, Central Commission, P.O. Box 4770, Lincoln, NE 68504 (phone – 402/476-8247; fax – 402/476-8205; rita@cillrwcc.org; www.cillrwcc.org)

Compacts and Their Host States (continued)

Central Midwest Compact

Governing Body Central Midwest Interstate Low-Level Radioactive Waste Commission



Member States Illinois, Kentucky

Compact Established The compact was established in September 1984, ratified by Congress effective January 1986, and most recently amended and ratified in October 1994.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Other Information The compact and its host state, Illinois, have determined to place siting efforts on hold due to continued access to disposal facilities outside the compact region and a decline in waste volumes which impacts the economies of disposal facility development. The compact projects that it will not open a regional disposal facility until 2032 or later, when some regional nuclear power plants will begin decommissioning. In the meantime, the compact and state have looked at interim storage as a possible solution until a permanent disposal facility is developed.

In 2004, the Central Midwest Commission requested that the State of Illinois evaluate the potential impacts on the region's generators from the pending loss of access to currently available disposal facilities. In order to make an assessment, the Illinois Emergency Management Agency (IEMA) initially hosted a conference for the region's waste generators in October 2004. The conference was then followed up with the distribution of a questionnaire designed to assess the potential impacts on the generators and their plans and preferences for managing their waste following disposal facility closure. In 2005, IEMA issued a report titled, "An Evaluation of the Potential Effects from the Closure of Available Disposal Capacity on the Central Midwest Compact Region's Low-Level Radioactive Waste Generators." The report concluded that regional generators would not suffer an immediate Class B and C low-level radioactive waste management crisis upon the scheduled loss of access to the Barnwell, South Carolina's disposal facility on July 1, 2008. In explanation, the report finds that the primary generators of Class B and C waste are the nuclear utilities and that they have indicated that they can safely store their Class B and C wastes for the remaining life of their plants (including any plant life extension). There is very little non-reactor generated Class B and C waste produced in the Central Midwest region. Three non-reactor generators combined anticipate generating less than 100 cubic feet of Class B and C waste in the 24-year period following the closure of the Chem-Nuclear Barnwell facility. In October 2006, the Central Midwest Compact and the State of Illinois sponsored a generators' conference to discuss this report. Another conference was held in October of 2008 that essentially resulted in the same findings as the 2005 report.

For additional information or to obtain a copy of the report, please contact Marcia Marr of IEMA at (217) 785-9982.

Contact Marcia Marr, Executive Director, Central Midwest Interstate Low-Level Radioactive Waste Commission, Illinois Emergency Management Agency (IEMA), State of Illinois, 1035 Outer Park Drive, Springfield, Illinois, 62704 (phone – 217/785-9982; fax – 217/785-9977; Marcia.Marr@Illinois.gov; www.state.il.us/IEMA/dns.asp)

Compacts and Their Host States (continued)

Host State: Illinois

Regulatory Responsibility Illinois Emergency Management Agency (IEMA)

Program and Siting Responsibility Low-Level Radioactive Waste Task Group (Task Group)—develop siting criteria

Illinois State Geological Survey and State Water Survey—statewide screening including evaluation of volunteer locations and identification of locations likely to meet the criteria

Illinois Emergency Management Agency—adopt rules establishing a site selection process for the regional disposal facility which considers land jointly volunteered by the landowner and applicable municipal or county government

Facility developer—conduct evaluation of the sites and locations identified under the site selection process

Illinois Emergency Management Agency—licensing agency

Disposal Technology above-grade, earthen-covered concrete vault

Siting In December 1996, the Task Group published siting criteria. As directed by amendments to the state siting law enacted in June 1997, the Illinois State Geological and Water Surveys screened the state and produced maps showing the application of the siting criteria and submitted their findings to the Task Group and to IDNS by September 30, 1997. IEMA will now develop a volunteer site selection process that will use the Surveys' information. The contractor will conduct a site selection process including the evaluation of volunteered lines. Once the contractor has selected a site and the Task Group approves the site, the contractor will proceed with characterization and licensure of the proposed site.

In 1997, Illinois determined to place further siting efforts on hold due to continued access to disposal facilities outside the compact region and a decline in waste volumes which impacts the economies of disposal facility development. It is projected that a regional disposal facility will not be opened until 2032 or later, when the nuclear power plants will begin decommissioning. In the meantime, Illinois has looked at interim storage as a possible solution until a permanent disposal facility is developed.

Licensing A license application is expected to be submitted by 2029.

Development Costs To date: not available. Estimated total cost including construction: not available.

Disposal Facility Operational Projected by 2032, when the availability of decommissioning waste from the region's nuclear power plants is projected to render the new facility cost effective.

Contact Michael Klebe, Illinois Emergency Management Agency, 1035 Outer Park Drive, Springfield, IL 62704 (phone – 217/785-9986; fax – 217/785-9977; Michael.Klebe@Illinois.gov; www.state.il.us/IEMA/dns.asp)

Compacts and Their Host States (continued)

Midwest Compact



Governing Body Midwest Interstate Low-Level Radioactive Waste Compact Commission

Member States Indiana, Iowa, Minnesota, Missouri, Ohio, Wisconsin

Compact Established The compact was established in October 1983 and was given the consent of Congress in December 1985. Compact amendments were enacted by Ohio and Wisconsin in 1995 and by Indiana, Iowa, Minnesota, and Missouri in 1996; however, these amendments have not been submitted to Congress for consent.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

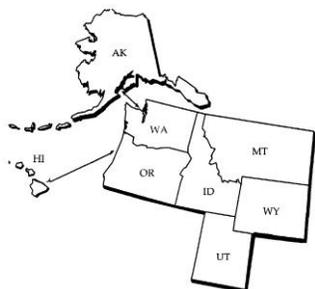
Other Information On June 26, 1997, the Midwest Compact Commission halted development of a regional disposal facility in Ohio. Citing significant declines in Midwest Compact waste volumes, the potentially high cost of developing new disposal capacity, and continued access to the Barnwell and Envirocare of Utah (now operating as the EnergySolutions' Clive) disposal facilities, the Commission also relieved Ohio of its host state designation and its obligation to site and operate a regional facility. After a year-long review, the Commission closed its St. Paul office and assigned the executive duties to Stanley York—the Commission's Chair. In July 2007, Stanley York stepped down from the position of Commission Chair. The Commission reelected Roger Suppes as Vice-Chair and authorized him to complete the duties of the Chair. In 2008, the Commission reelected Stanley York to the Chair and as the delegate to meetings of the LLW Forum. He continues as the Executive Director of the Compact Commission. The Commission continues to work with generators to assure long-term access to disposal facilities.

Host State: None

Contacts Stanley York, Executive Director, Midwest Interstate Low-Level Radioactive Waste Compact Commission, 2851-1 Century Harbor, Middleton, WI 53562-1824 (phone – 608/831-5434; stan.york@tds.net; www.midwestcompact.org)

Compacts and Their Host States (continued)

Northwest Compact



Governing Body Northwest Interstate Compact Committee

Member States Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, Wyoming

Compact Established The Compact was established in 1981 and ratified by Congress in December 1985.

Current Waste Management In-region low-level radioactive waste is disposed of at the regional commercial disposal facility in Richland, Washington. NARM and exempt wastes meeting the Washington Department of Health's license conditions are also being shipped to the Richland facility.

Richland Facility The designated host state for the Northwest Compact is the State of Washington, which hosts a regional facility operated by US Ecology located on the U.S. DOE Hanford reservation in Richland, Washington. The Richland facility has separate disposal areas and accepts for disposal both limited federal waste and in-region commercial low-level radioactive waste (as well as commercial low-level waste from the Rocky Mountain Compact). Out-of-region commercial low-level radioactive waste (other than that coming from the Rocky Mountain Compact) is prohibited from being disposed of at the Richland facility. NARM waste may be received at the Richland facility from all states.

In 2005, the State of Washington and US Ecology agreed to incorporate a clause in the new sublease for the disposal facility in Richland, Washington, allowing the state to terminate the sublease if the Northwest Compact loses exclusionary authority on out-of-region low-level radioactive waste provided by federal law.

Clive Facility EnergySolutions operates a disposal facility in Clive, Utah which accepts both federal and out-of-region Class A commercial low-level radioactive waste, NARM and exempt waste. On April 20, 2006, the Northwest Compact approved a Third Amended Resolution and Order regarding access to the Clive facility. On May 8, 2008, the Compact adopted a resolution clarifying that foreign low-level radioactive waste has not been addressed and that an arrangement would need to be adopted prior to such waste—including foreign generated waste characterized as domestic generated waste by another compact or unaffiliated state—being provided access to the region for disposal at Clive.

On May 5, 2008, EnergySolutions filed a lawsuit against the Northwest Compact and its Executive Director arguing, among other things, that: (1) Clive is not a "regional disposal facility" under the Policy Act and, as such, the Compact lacks authority over the facility, (2) NRC's authority to regulate the import and export of nuclear materials preempts any authority that the Compact may have over the Clive facility; and (3) the dormant Commerce Clause prevents the Compact from discriminating against foreign waste. The Northwest Compact responded that (1) the Compact itself provides the legal basis to restrict disposal at Clive; (2) the Compact Committee derives its exclusionary authority from the Compact itself, not from the Policy Act; (3) the Compact Committee is authorized under Articles IV and V to limit the access for out-of-region waste to the Clive facility; and, (4) the Clive facility qualifies as a "regional disposal facility" under the 1985 act. The Rocky Mountain Compact & State of Utah subsequently intervened as defendants to the action.

On May 15, 2009, the district court issued a finding that, with regard to the importation of low-level radioactive waste from outside of the compact region, the Northwest Compact does not have the authority to restrict access to Clive. The court held that Clive is a private facility operating in interstate commerce that is not covered by the compact system—i.e., it is not a "regional disposal facility" as defined under federal law. The court further ruled, however, that the Compact has authority to regulate the disposal of low-level waste that is generated within the compact's regional boundaries—including restricting disposal access for such waste to the Clive facility. Finally, the court's ruling maintains the authority of the Compact to regulate the Richland facility—regardless of the origin of waste that is sent thereto.

Notices of appeal were filed in June 2009. In September 2009, six regional compacts, New Mexico and the Council of State Governments filed Amicus Briefs in support of the defendant-appellants. The U.S. Court of Appeals for the Tenth Circuit heard oral arguments on January 14, 2010. As of press time, the appellate court has not issued a decision.

Contact Michael Garner, Executive Director, Northwest Compact, Policy Analyst, Nuclear Waste Program, Dept. of Ecology, PO Box 47600, Olympia, WA 98504-7600 (phone – 360/407-7102; fax – 360/407-6715; jamg461@ecy.wa.gov)

Compacts and Their Host States (continued)

Host State: Washington

Regulatory Responsibility Department of Health

Program Responsibility Department of Ecology

Disposal Technology 10 CFR Part 61 near surface disposal

Siting The regional low-level radioactive waste disposal facility is located on the U.S. Department of Energy (DOE) Hanford reservation on 100 acres of land subleased by US Ecology from the State of Washington. The sublease was renewed for ten years in 2005, with four ten-year renewal options.

Licensing The site operator's current materials license was issued by the Washington State Department of Health on October 20, 2005. The license expires January 31, 2011. Relicensing was one of three significant actions considered in the May 2004 environmental impact statement.

Disposal Facility Operational The compact's regional disposal facility has been in operation since July 1965.

Other Information The compact's low-level radioactive waste disposal site is not permitted for mixed waste. In 2005, the State of Washington and US Ecology agreed to incorporate a clause in the new sublease for the disposal facility in Richland, Washington, allowing the state to terminate the sublease if the Northwest Compact loses exclusionary authority on out-of-region low-level radioactive waste provided by federal law.

Voter Initiative/Related Litigation On November 2, 2004, by a margin of roughly 2 to 1, Washington voters overwhelmingly approved an initiative to require DOE to clean up the Hanford nuclear reservation before it sends any additional waste to the facility. In addition, initiative 297 also sought to prevent the disposal of waste in unlined trenches. The initiative—which is known as the “Cleanup Priority Act”—was sponsored by Heart of America Northwest and received endorsements from environmental groups, the state Democratic Party and the League of Women Voters.

After passage of the initiative, DOE filed a lawsuit in the United States District Court for the Eastern District of Washington challenging its constitutionality and sought a restraining order on its enforcement. The department argued that there are too many uncertainties about how the state will implement the measure and contended that some cleanup efforts at the site have already been halted as a result of the initiative. On December 2, 2004, the court ruled for the federal government and issued the requested restraining order—although waste shipments to the site had already been halted under another lawsuit. In so ruling, the court found that there is a possibility that the initiative may be invalid and that DOE will suffer irreparable injury with regard to onsite cleanup at Hanford if it were to immediately become law. Subsequently, on June 12, 2006, the court struck down the Cleanup Priority Act as preempted by the Atomic Energy Act and in violation of sovereign immunity. The State of Washington filed an appeal with the U.S. Court of Appeals for the Ninth Circuit in San Francisco on July 12, 2006. On May 21, 2008, the appellate court upheld the lower court's decision, finding that federal law preempts the Act. The state subsequently decided not to appeal the Ninth Circuit decision.

Litigation re Closure Plan On May 27, 2010, the Confederated Tribes and Bands of the Yakama Nation and Heart of America Northwest Research Center filed suit in the Superior Court of the State of Washington that, among other things, challenges a recent decision to allow US Ecology to begin closure of the commercial waste disposal facility at the Hanford Nuclear Reservation as a violation of the Atomic Energy Act, the Low-Level Radioactive Waste Policy Act, and the Resource Conservation and Recovery Act. They allege, among other things, that non-eligible wastes have been disposed at the site, that tests indicate unacceptably high levels of contamination, and that state agencies did not follow proper procedural requirements. The State is reviewing the lawsuit and will file a response shortly.

State Contact Lawrence Goldstein, Chair, Northwest Compact, Section Manager, Nuclear Waste Program, Dept. of Ecology, PO Box 47600, Olympia, WA 98504-7600 (phone – 360/407-6573; fax – 360/407-6715; lgol461@ecy.wa.gov)

Operator Contact Chad Hyslop, Sales Director, US Ecology, Lakepointe Centre, 300 E. Mallard Drive, Suite 300, Boise, ID 83706 (phone – 208/331-8400; fax – 208/331-7900; chvslop@americanecology.com)

Compacts and Their Host States (continued)

Host State: Utah

Regulatory Responsibility Division of Radiation Control of the Utah Department of Environmental Quality

Program Responsibility Division of Radiation Control of the Utah Department of Environmental Quality (DEQ)

Disposal Technology & Operation embankment/modified shallow-land burial (facility operation began in 1988)

Siting The EnergySolutions' Clive, Utah low-level radioactive waste disposal facility is located on 640 acres of land in Tooele County, Utah—80 miles west of Salt Lake City. EnergySolutions has also purchased additional land in Section 29 (to the North) and Section 5 (to the South) for operational support purposes.

Licensing Out-of-region low-level radioactive wastes meeting the Clive facility's license conditions are provided access to the region for disposal at the Clive facility. The site operator's current low-level/NORM license was issued on January 25, 2008 for a five-year term that expires in 2013. The uranium mill tailings license is currently under timely renewal and is subject to conditions yet to be determined on the status of the uranium mill tailings cell. The Division of Solid and Hazardous Waste issued a mixed waste permit for a ten-year term that expires on April 4, 2013. The facility is licensed to accept mixed and low-level radioactive waste up to Class A limits, containerized Class A waste, NORM, and uranium and thorium mill tailings. EnergySolutions cannot accept Class B and C waste, uranium mill tailings above a certain radionuclide concentration & sealed sources. HEAL Utah petitioned the Radiation Control Board for a moratorium on the disposal of depleted uranium. In place of acting on the petition, the Board developed and promulgated a rule.

Low-level radioactive waste is currently being disposed of in the Class A North and Class A cells. A license amendment was submitted on January 4, 2008 to convert some of the remaining capacity of the uranium mill tailings cell for the disposal of low-level radioactive waste. The question of perpetual care of the cell by DOE remains under consideration.

DEQ is reviewing a proposed license amendment that would impose certain requirements on the receipt and disposal of depleted uranium at Clive. DEQ is also considering amendments to the facility's groundwater discharge permit.

Foreign Waste and Associated Litigation On September 14, 2007, EnergySolutions applied to NRC for licenses to import up to 20,000 tons of potentially radioactively contaminated material from Italy and to export for return to generators in Italy any of the imported waste that can not be recycled or does not meet the Clive facility's waste acceptance criteria for disposal. The Northwest Compact opposes the proposal and contends that importation of the waste is not permitted under its Third Amended Resolution and Order. On May 5, 2008, EnergySolutions filed a lawsuit challenging the Northwest Compact's authority over the Clive facility and, in particular, its authority to restrict the importation of foreign-generated low-level radioactive waste. On May 15, 2009, the court held that the Northwest Compact does not have the authority to restrict access for out-of-region waste to Clive, although it can restrict access to the facility for in-region waste. The defendants appealed the ruling. (For additional information, see page 9.) On July 23, 2010, EnergySolutions sent a letter to NRC seeking to withdraw the Italian waste application. Instead, the company says that it will focus on the long-term strategic interests of its international customers, which includes plans to provide "a wide range of engineering and technical services to facilitate final in-country disposition of these materials."

Other Info In early-2010, the Radiation Control Board issued Position Statements that, among other things, (1) oppose waste blending when the intent is to alter the waste classification for the purposes of disposal site access and (2) support maintaining the waste classification system. Effective June 2, 2010, the Board voted to approve a Depleted Uranium Performance Assessment Rule (R313-25-8) that incorporates language regarding site-specific performance assessment for facilities accepting depleted uranium for land disposal, prior to disposal of significant quantities of depleted uranium.

On February 19, 2010, EnergySolutions announced that Steve Creamer had resigned as the company's Chief Executive Officer. Creamer—who took over as the company's CEO in February 2005 upon its purchase by a private investor group—also resigned as Chairman of EnergySolutions' Board of Directors. Upon acceptance of Creamer's resignation, Val Christensen was appointed as the company's CEO and President.

State Contact Rusty Lundberg, Director, Div. of Radiation Control, DEQ, 195 North 1950 West, PO Box 144850, Salt Lake City, UT 84114-4850 (phone – 801/536-4257; fax – 801/533-4097; rlundberg@utah.gov; www.deq.utah.gov)

Operator Contact Dan Shrum, Senior Vice President for Regulatory Compliance, EnergySolutions, 423 West 300 South, Suite 200, Salt Lake City, UT 84101 (phone – 801/649-2000; fax – 801/413-5646; dshrum@energysolutions.com)

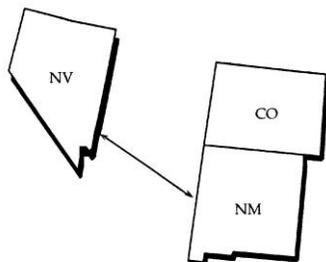
Compacts and Their Host States (continued)

Rocky Mountain Compact

Governing Body Rocky Mountain Low-Level Radioactive Waste Board

Member States Colorado, Nevada, New Mexico

Compact Established The compact was established in 1983 and ratified by Congress in December 1985.



Current Waste Management The Rocky Mountain Board has a contract with the Northwest Compact and the State of Washington for the disposal of commercial Class A, B and C low-level radioactive waste at the facility in Richland, Washington. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the Energy *Solutions*' facility. Certain NORM and TENORM wastes meeting the State of Colorado's conditions are being shipped to the Clean Harbors Deer Trail facility. Certain NARM wastes meeting the State of Washington's conditions are being shipped to the Richland facility.

Facility Designation In May 2005, the Rocky Mountain Board received an application from the State of Colorado for the designation of Clean Harbors Deer Trail facility (CHDTF) as a limited regional low-level radioactive waste disposal facility. Colorado filed the application after receiving in January 2005 a radioactive materials license application from CHDTF that proposes the disposal of Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) at the facility. In September 2006, the Rocky Mountain Board designated CHDTF as a regional facility for the disposal of NORM and TENORM up to 400 pCi/g of radium and 2,000 pCi/g total NORM and TENORM. In-region generated NORM and TENORM may be disposed of in the region at such facilities allowed by the policies and regulations of the state in which such disposal will occur.

Other Information Export authorization is required for all waste generated within the compact region that is sent outside of the region. Import authorization is required to bring out-of-compact waste into the region for management. The compact has jurisdiction (including import/export authority) over NORM/NARM.

Uranium Facilities On June 10, 2010, the U.S. Nuclear Regulatory Commission (NRC) announced that the agency has completed its readiness review of the Louisiana Energy Services' (LES) gas centrifuge uranium enrichment plant in Lea County, New Mexico and could begin operation of the first cascade—a series of rotating cylinders using centrifugal force to separate uranium isotopes—under its NRC license. Operations began on June 11, 2010. The LES URENCO USA Facility, formerly known as the National Enrichment Facility, is located near the town of Eunice, New Mexico. It was granted a license from the NRC in June of 2006 and shortly thereafter began construction of the site's buildings, centrifuges and security structures. Pursuant to the license, LES—a subsidiary of URENCO—may enrich up to five percent of the isotope uranium-235 for use in the manufacture of nuclear fuel for commercial nuclear power plants.

On April 13, 2010, the NRC announced the availability of an application from International Isotopes for a license to construct & operate a depleted uranium deconversion facility in Lea County, New Mexico. International Isotopes submitted the application on December 30, 2009. NRC docketed the application on February 23, 2010. The proposed facility would process depleted uranium hexafluoride (DUF6) into commercially resalable fluoride products and depleted uranium oxide for disposal. The plant would be capable of deconverting up to 7.5 million pounds per year of DUF6 provided by commercial enrichment facilities throughout the United States. International Isotopes license application & information on the NRC review process can be found at <http://www.nrc.gov/materials/fuel-cycle-fac/ininfacility.html>.

Compact Contact Leonard Slosky, Executive Director, Rocky Mountain Board, 303 East 17th Avenue, Suite 1080, Denver, CO 80203-1264 (phone – 303/825-1912; fax – 303/892-3882; board@rmlwb.us; www.rmlwb.us)

Operator Contact Phillip Retallick, Senior Vice President, Compliance and Regulatory Affairs, Clean Harbors Environmental Corp., 200 Arbor Lake Drive, Suite 300, Columbia, SC 29223 (phone – 803/691-3427; fax – 803/691-3491; Retallick.Phillip@cleanharbors.com)

Compacts and Their Host States (continued)

Host State: Colorado

Regulatory Responsibility Colorado Department of Public Health and Environment (CDPHE)

Program Responsibility Colorado Department of Public Health and Environment (CDPHE)

Siting Clean Harbors Deer Trail facility (CHDTF) is located in Adams County, Colorado

Licensing In January 2005, the State of Colorado received a radioactive materials license application from CHDTF that proposes the disposal of Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) at the facility. The application is on the board's web page at www.rmlwb.us. (For additional information, see the "Facility Designation" section of the compact on page 12.)

On December 21, 2005, CDPHE issued a hazardous waste permit renewal and radioactive materials license to CHDTF. The radioactive materials license allows the facility to accept limited types of NORM and TENORM or such waste that has been modified in industrial processes. It prohibits the acceptance of artificial or artificially altered radioactive material from research, medicine, weapons, nuclear power plants or other operations. Pursuant to the license, CHDTF has been accepting NORM and TENORM since December of 2006.

Litigation Against CDPHE On January 20, 2006, the Adams County Board of Commissioners ("Adams County") filed two lawsuits against CDPHE. One suit—which was filed in the District Court of Adams County—challenges the hazardous waste permit for CHDTF. The other suit—which was filed in the District Court for the City and County of Denver—challenges the issuance of the radioactive materials license for the facility. In the lawsuits, Adams County contends CDPHE's issuance of a radioactive materials license to the Deer Trail facility "was in excess of its statutory jurisdiction, authority, purposes and limitations, was arbitrary and capricious, was an abuse of discretion, was unsupported by substantial evidence, was a denial of a statutory right, was contrary to the Radiation Control Act and its regulations, and otherwise contrary to law" for a variety of reasons.

On May 17, 2006, the Denver District Court issued an order dismissing the lawsuit challenging the issuance of a limited radioactive materials disposal license to CHDTF. In dismissing the suit, the court held that the plaintiff lacks constitutional and prudential standing and that the court thus lacks subject matter jurisdiction over the action. On July 5, 2006, the District Court of Adams County ruled that the plaintiff does not have judicial standing to sue the State of Colorado. The court vacated the judicial stay of the CHDTF radioactive materials license via bench verdict.

Adams County filed an appeal of the district court orders in both lawsuits. On October 2, 2007, a three-judge panel of the Colorado Court of Appeals issued two orders affirming the lower court decisions. On October 13, 2009, the Supreme Court of Colorado reversed the dismissal of both actions, holding that Adams County has standing to challenge issuance of the license and permit. The court remanded the cases for proceedings consistent with its opinion.

Litigation Against CHDTF On April 25, 2007, Adams County filed suit against CHDTF in the District Court of Adams County, Colorado seeking civil penalties, injunctive and declaratory relief. The suit alleges, among other things, that CHDTF has violated applicable laws by operating a regional low-level radioactive waste disposal facility without applying for and obtaining the necessary permit from Adams County. The plaintiff asserts that CHDTF's conduct violates various statutes, rules and regulations including the Local Government Land Use Control Enabling Act, the Colorado Hazardous Waste Siting Act, the Solid Wastes Act, the Adams County Development Standards & Regulations, and the Low-Level Radioactive Waste Act. In October 2007, the court dismissed two counterclaims filed by CHDTF after finding that it lacks jurisdiction due to Clean Harbors' failure to timely exercise its right of judicial review pursuant to Colorado statute. Shortly thereafter, in November 2007, CDPHE filed a motion seeking to intervene as co-defendant in the suit. On November 14, 2008, the court issued a ruling that held that CHDTF did not violate the law and granted the defendant's motion for summary judgment. CHDTF continues to accept NORM and TENORM.

State Contact Steve Tarlton of the Colorado Department of Public Health and the Environment at (303) 692-3423.

Operator Contact Phillip Retallick, Senior Vice President, Compliance and Regulatory Affairs, Clean Harbors Environmental Corp., 200 Arbor Lake Drive, Suite 300, Columbia, SC 29223 (phone – 803/691-3427; fax – 803/691-3491; Retallick.Phillip@cleanharbors.com)

Compacts and Their Host States (continued)



Southeast Compact

Governing Body Southeast Compact Commission for Low-Level Radioactive Waste Management

Member States Alabama, Florida, Georgia, Mississippi, Tennessee, and Virginia

Compact Established The Southeast Compact was established in 1983 and ratified by Congress in 1985. The compact law was amended in 1989.

Current Waste Management Use of EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as that facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Facility Designation In 1986, the Southeast Compact Commission designated North Carolina as the next host state. The North Carolina General Assembly accepted that designation. North Carolina began development of a disposal facility and accepted nearly \$80 million from the Southeast Compact Commission for site development activities.

Withdrawal On July 26, 1999, the State of North Carolina enacted legislation to withdraw from the Southeast Compact.

Sanctions/Litigation In June 1999, Commissioners from Florida & Tennessee filed a formal administrative complaint against North Carolina seeking sanctions for failure to fulfill its host state obligations. After conducting a formal hearing process, on December 9, 1999, the Southeast Compact Commission voted to impose sanctions on North Carolina, including the repayment of almost \$80 million in funds given to the state by the compact for development of a regional facility, \$10 million in lost future revenues, and an unspecified amount for attorney's fees. The Commission resolved that the required amounts "shall be paid in full by July 10, 2000." On June 23, 2002, the Southeast Compact—along with the party states of Alabama, Florida, Tennessee, and Virginia—filed a lawsuit in the U.S. Supreme Court to enforce the sanctions against North Carolina. The Court assigned the case to a Special Master who subsequently issued findings in favor of the State of North Carolina. On June 1, 2010, the Court ruled in favor of the defendant State of North Carolina. (Three separate opinions were filed, two of which dissented in part from the majority opinion.) Among other things, the Court agreed with the Special Master's findings that the Compact did not authorize the Commission to impose monetary sanctions against member states; the Commission could not impose sanctions because North Carolina withdrew from the Compact prior to the sanctions determination; North Carolina did not breach the Compact; and, North Carolina's withdrawal did not violate its implied covenant of good faith and fair dealing. However, the Court denied North Carolina's motion to dismiss the Commission's claims on the grounds of sovereign immunity and its motion for summary judgment on Counts III-V of the suit that deal with the equitable claims against North Carolina. On July 29, 2010, the Southeast Compact Commission unanimously voted "to proceed with legal action in accordance with the recommendations received from legal counsel."

LLRW Policy Statement On June 17, 2009, the Southeast Compact Commission revised its policy statement on the management of commercial low-level radioactive waste. The statement identifies a preferred course of action, reviews the impact of the loss of access for Class B & C waste in 2008, and provides a cautionary note regarding future decisions and alternative proposals.

Radiation Control in US Policy Statement On June 27, 2008, the Southeast Compact Commission adopted a policy statement concerning controls over ionizing radiation, including the management of radioactive waste. The statement argues that the current system of controls over ionizing radiation is "inconsistent" and that a "unified vision" is needed. It recommends that the U.S. Congress promulgate legislation "establishing a national policy in regard to ionizing radiation, including the management of radioactive waste."

Contact Kathryn Haynes, Executive Director, Southeast Compact Commission, 21 Glenwood Avenue, Suite 207, Raleigh, NC 27603 (phone – 919/821-0500; fax – 919/821-1090; khaynes@secompact.org; www.secompact.org)

Compacts and Their Host States (continued)



Southwestern Compact

Governing Body Southwestern Low-Level Radioactive Waste Commission

Member States Arizona, California, North Dakota, South Dakota

Compact Established The compact was established in July 1988 and ratified by Congress in November 1988. North Dakota and South Dakota joined the compact in 1989.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Other Information Generators who want to export low-level radioactive waste for disposal at the EnergySolutions' Clive, Utah facility must petition the Southwestern Compact Commission for approval. A fee must accompany the petition. A petition is not required for disposal of NARM waste at the Richland, Washington disposal facility nor is a petition required for exportation of low-level radioactive waste for treatment outside of the Southwestern Compact region unless the treated waste is ultimately destined for land disposal. Any party planning to import low-level radioactive waste into the Southwestern Compact region for disposal is required to obtain written approval from (1) the compact or unaffiliated state in which the waste originated; (2) the Southwestern Low-Level Radioactive Waste Compact Commission; and (3) the radiation control and waste management agencies of the state into which the waste would be imported for disposal.

Meeting Information On April 30, 2010, the Southwestern Low-Level Radioactive Waste Commission held its 59th meeting. The meeting, which was open to the public, was held at The Lodge at Deadwood in San Diego, California. The public was invited to comment on specific agenda items. The following items were on the meeting agenda:

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

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

Contact Kathy Davis, Executive Director, Southwestern Low-Level Radioactive Waste Compact Commission, 1731 Howe Avenue, Suite 611, Sacramento, CA 95825 (phone – 916/448-2390; fax – 916/720-0144; swllrwcc@swllrwcc.org; www.swllrwcc.org)

Compacts and Their Host States (continued)

Host State: California

Regulatory and Program Responsibility California Department of Health Services (DHS)

Siting Responsibility None

Other Involvement None

Disposal Technology enhanced shallow land burial

Siting The state previously chose land in Ward Valley as its preferred site. However, the land is owned by the federal government, which subsequently declined to transfer it to the state. A new preferred site has not been chosen.

Licensing A license for a disposal facility at Ward Valley was issued by DHS on September 16, 1993, conditioned on DHS ownership of the land. The license did not include mixed waste disposal. Due to the federal government's refusal to transfer the land, the license became moot.

Development Costs Through November 1, 1998, approximately \$92 million including interest had been spent on the unsuccessful attempt to develop a facility at Ward Valley.

Disposal Facility Operational Unknown.

Other Information Although the State of California issued a license to build a low-level radioactive waste disposal facility at Ward Valley in 1993, the license became moot when the federal government refused to transfer the site to the state for its intended use. The state subsequently enacted a statute precluding site development in Ward Valley.

US Ecology, the selected developer for the Ward Valley site, unsuccessfully attempted to recover monetary damages from the failed land transfer process through litigation in state court.

On June 2, 1999, then-California Governor Gray Davis established an advisory group charged with proposing ways to find "workable alternatives for California's low-level radioactive waste disposal." The state's original preferred site—Ward Valley, California—was not among the issues to be studied by the group. In mid-2000, the advisory group delivered a report to the Governor which presents four options: (1) continue current practices—storage for decay and disposal at out-of-state facilities—for management of low-level radioactive waste produced within the state, (2) divide the waste stream into categories according to various criteria and apply different management techniques, (3) operate an assured isolation facility, and (4) operate a disposal facility. The report did not recommend any one option over the others and no further action has been taken by the state since its release.

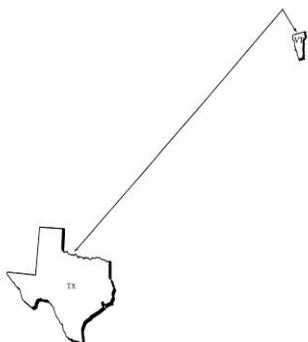
On June 16, 1999, the California legislature adopted a budget that effectively eliminated the state's low-level radioactive waste program.

To date, the Southwestern Low-Level Radioactive Waste Commission has sent several letters to California Governor Arnold Schwarzenegger inquiring as to the "administration's plans regarding meeting California's legal obligation to provide a low-level radioactive waste (LLRW) disposal facility." The Governor has not responded to the letters, the most recent of which was sent in January 2010.

Contact Gary Butner, Chief, Radiologic Health Branch, Department of Public Health, State of California, 1500 Capitol Avenue, MS 7610, Sacramento, CA 95899 (phone – 916/440-7942; fax – 916/650-6722; gary.butner@cdph.ca.gov)

Compacts and Their Host States (continued)

Texas Compact



Governing Body Texas LLRW Disposal Compact Commission (the “Commission”)

Member States Texas, Vermont

Compact Established In June 1993, the Governor of Texas signed into law legislation that became effective on August 30, 1993 that establishes a low-level radioactive waste compact with Maine and Vermont. Maine completed its approval process with the passage of a referendum on November 2, 1993. Vermont adopted the compact on April 25, 1994. President Clinton then signed the compact consent legislation into law on September 20, 1998. Maine’s former-Governor, Angus King, signed legislation into law on April 5, 2002 removing Maine from the Texas Compact. Based on compact provisions, the withdrawal became effective in April 2004.

Current Waste Management Use of the EnergySolutions’ commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as it ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions’ facility. In addition, certain NARM wastes meeting the State of Washington’s conditions can be shipped to US Ecology’s commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting and Licensing A final license was issued to WCS on September 10, 2009. (For more information, see page 18.)

Import/Export Regulations The Commission is comprised of eight members (six from Texas and two from Vermont) and held its first meeting in February 2009. The Commission began considering export and import issues during two stakeholder meetings in August and December of 2009. Subsequently, in January 2010, the Commission approved the publication of proposed import and export rules by vote of five to two. The proposed rules were published in the Texas Register (35 Texas Register 1028) on February 12, 2010. [<http://www.sos.state.tx.us/texreg/pdf/curview/0212prop.pdf>] Upon publication, a 60-day comment period was initiated. After publication, the Commission held two public hearings in April 2010 to allow additional comment on the proposed rules. The comment period closed on April 13, 2010. On April 29, 2010, a working group of the Commission’s Rules Committee met to discuss and draft responses to comments and proposed revisions to the preamble and text. On June 12, 2010, the Commission voted to withdraw the proposed rules as published. In addition, the Commission stated their intent to use the revised proposed rules as the starting point for a new rulemaking effort, with the addition of a new section on importation of waste for management purposes only.

Volume Rule The Commission filed a "volume" rule with the Texas Secretary of State that became effective September 20, 2009—in advance of the statutory deadline. The rule was published in the *Texas Register* on September 11, 2009. The rule states that “[t]he Commission estimates that Texas will dispose of Five Million (5,000,000) Cubic Feet of Low Level Radioactive Waste at a Compact disposal site to be established in Texas during the period from 1995 – 2045.”

Bond Election and Associated Litigation A proposal for Andrews County to take out a \$75 million bond for the planned disposal facility was placed on the county’s May 2009 ballot, at the request of WCS. A suit challenging the bond, which passed by a vote of 642 to 639, was dismissed by the state district court on October 6, 2009. The plaintiff’s appealed that decision, focusing mainly on the validity of voter registration cards. In mid-April 2010, the Eighth Circuit Court of Appeals in El Paso, Texas upheld the results of the bond election. An appeal has been filed in the Texas Supreme Court.

Other Information The WCS site, which is located in Andrews County, continues to operate facilities for processing, treatment and storage of hazardous, toxic, low-level, and mixed radioactive wastes. Information on the WCS application and review can be found at http://www.tceq.state.tx.us/permitting/waste_permits/rad_waste/WCS_license_app.html.

Compact Contact Margaret Henderson, Interim Executive Director, Texas Low-Level Radioactive Waste Disposal Compact Commission, 3616 Far West Blvd, Suite 117, # 294, Austin, TX 78731 (phone – 512/820-2930; margaret.henderson@tllrwdcc.org; www.tllrwdcc.org)

Operator Contact Rodney Baltzer, President, Waste Control Specialists LLC, 5430 LBJ Freeway, Suite 1700, Dallas, TX 75240 (phone – 972/450-4235; fax – 972/448-1435; rbaltzer@valhi.net; www.wcstexas.com)

Compacts and Their Host States (continued)

Host State: Texas

Regulatory and Program Responsibility Texas Commission on Environmental Quality (TCEQ)

Siting Responsibility open to any private company

Disposal Technology stable bulk soil-like waste or concrete canisters in near-surface landfills

Siting In May 2003, legislation was passed that limits the potential siting area to the panhandle region of Texas—bordered by the states of New Mexico and Oklahoma. Any site must be within the region, meet technical requirements and be supported by resolution of the affected county's Commissioners' Court.

Licensing In 2003, the Texas legislature passed H.B. 1567, which amends Texas Health & Safety Code provisions dealing with the siting and operation of a commercial LLRW disposal facility for the Texas Compact. (For a copy of the bill, please go to http://www.capitol.state.tx.us/tlo/legislation/bill_status.htm.) The legislation allows for the creation of two privately run waste disposal facilities to be licensed as one site by the TCEQ. One facility may dispose of federal facility waste, as defined by the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments, subject to certain specified conditions. The other, adjacent facility, may dispose of commercial low-level radioactive waste.

On August 4, 2004, Waste Control Specialists LLC (WCS) filed an application with the Texas Commission on Environmental Quality (TCEQ). Administrative and technical reviews were conducted, during which additional and revised materials were submitted. On December 10, 2007, TCEQ provided to WCS for review and comment an initial draft license. On August 13, 2008, TCEQ mailed the notice of technical summary and preliminary decision with a draft license and environmental analysis for publication. The public comment period ended on September 16, 2008. On December 2, 2008, TCEQ filed a response to comments. On January 14, 2009, TCEQ Commissioners denied hearing requests and approved a licensing order by a vote of 2 to 0. Following the completion of condemnation proceedings and the acquisition of underlying mineral rights, TCEQ's Executive Director signed the final Radioactive Materials License No. R04100 on September 10, 2009. Facility construction may not commence until certain pre-construction requirements have been fulfilled and the TCEQ Executive Director has granted written approval. In early 2010, WCS submitted technical reports regarding pre-construction license conditions and other conditions specified in the final license. Approximately 52 work plans were submitted including drawings, maps, and other data.

On May 31, 2007, the Texas legislature passed a bill (SB 1604) that, among other things, consolidates most waste management licensing authority within the TCEQ. Previously, the Department of State Health Services & the Executive Commissioner of the Health and Human Services Commission had jurisdiction over some of these authorities.

For current license review information, go to http://www.tceq.state.tx.us/permitting/waste_permits/rad_waste/WCS_license_app.html. For information on Texas first siting/licensing attempt at Hudspeth County, please refer to previous issues of the "Summary Report."

Rate Application TCEQ is charged with establishing waste disposal fees by rule for the Texas Compact. In November 2009, the agency published a Rate Application Package at <http://www.tceq.state.tx.us/goto/rates>. In June 2010, WCS filed an application to establish the maximum rates for commercial waste disposal. The filing included two alternative proposed rate schedules: one reflecting disposal for generators in Texas and Vermont, and a second based on disposal by Texas Compact generators and limited disposal by out-of-region generators. The application also provides information for consideration in the determination of an appropriate inflation adjustment, volume adjustment, and extraordinary volume adjustment. TCEQ is reviewing the application to determine a rate of return and establish a proposed fee schedule based on radioactive, physical, & chemical properties of each type of low-level waste consistent with Texas Health & Safety Code Chapter 401.

Disposal Facility Operational Projected 2010/2011

Contact Susan Jablonski, Director of Radioactive Materials Division, Texas Commission on Environmental Quality, State of Texas, PO Box 13087, Mail Code 233, Austin, TX 78711-3087 (phone – 512/239-6466; fax – 512/239-6464; sjablons@tceq.state.tx.us; www.tceq.state.tx.us/nav/permits/rw.html)

Operator Contact Rodney Baltzer, President and CFO, Waste Control Specialists LLC, 5430 LBJ Freeway, Suite 1700, Dallas, TX 75240 (phone – 972/450-4235; fax – 972/448-1435); rbaltzer@valhi.net; www.wcstexas.com)

Unaffiliated States

Massachusetts



Primary Regulatory Responsibility Department of Public Health (DPH)

Secondary Regulatory Responsibility Department of Environmental Protection (DEP)

Program and Siting Responsibility Department of Public Health

Disposal Technology Shallow land burial is prohibited in Massachusetts; the chosen technology must allow monitoring and package retrieval. The sited community will select the disposal technology from methods approved by DPH.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting As a result of renewed access to the Barnwell site in July 1995 and the expanded availability of the Envirocare (now known as EnergySolutions) disposal facility in Clive, Utah, the Commonwealth of Massachusetts decided in March 1996 to cease its activities involving statewide mapping and screening—the first major stage of its in-state siting efforts—and to continue discussions with other states and compacts for future disposal arrangements, while monitoring changes in the national low-level radioactive waste management situation.

Contact Robert Gallagher, Acting Director, Radiation Control Program, Department of Public Health, Commonwealth of Massachusetts, Schrafft Center, Suite 1M2A, 529 Main Street, Charleston, MA 02129 (phone – 617/242-3035 ext. 2001; fax – 617/242-3457; robert.gallagher@state.ma.us; www.mass.gov/dph/rcp)



Maine

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting Maine has no plans to site a disposal facility due to the small amount of low-level radioactive waste generated. In June 2006, the Advisory Commission on Radioactive Waste and Decommissioning (ACORWD) was terminated and in June 2008 the position of State Nuclear Safety Advisor was eliminated. Both changes were due to the decommissioning of the Maine Yankee nuclear power plant.

Contact Thomas Hillman, Radioactive Waste Coordinator, Radiation Control Program, Department of Health and Human Services, State of Maine, 11 State House Station, Augusta, ME 04333-0011 (phone – 207/287-8401; fax – 207/287-3059; Tom.Hillman@maine.gov)

Unaffiliated States (continued)

Michigan



Regulatory Responsibility Michigan Department of Environmental Quality

U.S. Nuclear Regulatory Commission (Michigan is not an Agreement State.)

Program and Siting Responsibility Michigan Low-Level Radioactive Waste Authority (Authority)

Disposal Technology State law limits disposal technology to above- or below-ground vaults or above- or below-ground modular canisters. No final determination has been made on facility design.

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting A policy advisory board issued a series of recommendations in September 1995. The board's report included specific recommendations regarding the conduct of a volunteer host community process, revisions to state siting criteria, and consideration of compact options. Amendments to state law must be enacted before these recommendations can be implemented and a new siting process pursued. No effort is currently under way to enact amendments.

Development Costs To date: \$12.6 million. Estimated total cost including construction: not available

Contact Robert Skowronek, Radiological Protection Section, Department of Natural Resources and Environment, State of Michigan, P.O. Box 30241, Lansing, MI 48909-7741 (phone – 517/241-1253; skowronekr@michigan.gov; www.michigan.gov/deq)

New Hampshire



Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting New Hampshire has no plans to site a disposal facility due to the small amounts of low-level radioactive waste generated. The Governor's Ad Hoc Committee, with the assistance of the State Radiation Advisory Committee, continues to welcome an opportunity to discuss contracts or compacts with any interested state.

Contact Michael Dumond, Bureau Chief of Public Health Protection, Division of Public Health Services, Department of Health and Human Services, State of New Hampshire, 29 Hazen Drive, Concord, NH 03301 (phone – 603/271-4549; fax – 603/271-8705; mdumond@dhhs.state.nh.us, www.dhhs.nh.gov)

Unaffiliated States (continued)

Nebraska



Regulatory and Program Responsibility

Nebraska Department of Environmental Quality (NDEQ)

Nebraska Department of Health and Human Services Regulation and Licensure (HHSR&L)

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Licensing On December 18, 1998, regulators in NDEQ and HHSR&L denied US Ecology's license application for construction and operation of a regional low-level radioactive waste disposal facility in Boyd County, Nebraska. The decision to deny the application was based on six objections—five of which relate to the site characteristics, and one that concerns US Ecology's financial qualifications. (The regulators had announced in August 1998 that the state intended to deny the application based on the six objections, plus concerns about the radiation safety program's ability to address accidents. The latter issue was subsequently resolved.) The decision to deny the license was made following a 90-day public comment period and public hearing in Boyd County on the proposed decision.

As part of a legal settlement agreement (see "Other Information" below and the Central Compact page of this document), the Central Interstate Low-Level Radioactive Waste Compact Commission subsequently agreed to cease all efforts to site a facility in the State of Nebraska. In addition, the state is not currently conducting any siting activities of its own.

Other Information In May 1999, the Nebraska legislature passed legislation (which became effective on August 12, 1999) withdrawing the state from the Central Compact. Under the terms of the Central Compact, however, withdrawal does not take effect until five years after the passage of such legislation and the provision of written notice to the Governors of each party state. On June 25, 2003, commissioners from the member states of Arkansas, Kansas, Louisiana and Oklahoma voted to revoke Nebraska's membership in the Central Compact (which revocation took effect one year after Nebraska received notice thereof) and to impose certain sanctions upon the state. On August 22, 2003, the State of Nebraska filed a lawsuit in the U.S. District Court for the District of Nebraska challenging the June 25 attempt to revoke and sanction the state as invalid and unenforceable on the grounds that it violates state and federal law and the express terms of the Central Compact. The lawsuit was ended amicably by the parties upon the State of Nebraska's completion of payments made pursuant to a legal settlement agreement involving various lawsuits that was reached on August 9, 2004. (For additional information, see the Central Compact page of this document.) Pursuant to the terms of the settlement agreement, the State of Nebraska paid to the Central Compact \$145.8 million on August 1, 2005. The State of Nebraska is no longer a member of the Central Compact and all issues between the parties are now resolved.

In 2010, citing financial restrictions, the State of Nebraska terminated its membership in the Low-Level Radioactive Waste Forum, Inc.

Contact Carla Prange Felix, Manager, Low-Level Radioactive Waste Program, Department of Environmental Quality, State of Nebraska, 1200 N Street, Suite 400, Lincoln, NE 68509-8922 (phone - 402/471-2923; fax - 402/471-2909; Carla.felix@nebraska.gov; www.deq.state.ne.us)

Unaffiliated States (continued)

New York



Regulatory Responsibility Department of Environmental Conservation (DEC)

Program Responsibility New York State Energy Research and Development Authority (NYSERDA)

Siting Responsibility Siting activities suspended in 1995.

Other Involvement Department of Health (DOH)

Department of Health and Mental Hygiene

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Disposal Technology State law bars shallow land burial. Above-grade vaults have been identified as the tentative preferred technology.

Siting The State Budget for FY 1995-96 phased-out the activities of the Low-Level Radioactive Waste Siting Commission, which was established in 1987 to select a site and disposal method. While subsequent legislative proposals have offered alternative siting processes, including solicitation of volunteer host communities, a revised siting process has not been determined. The DEC adopted low-level radioactive waste disposal facility siting and disposal method selection regulations in 1987. No siting activities are currently being conducted.

Licensing Once a site and a disposal method are selected, NYSERDA is responsible for obtaining both a DEC permit to construct and operate the facility and a DOH radioactive materials license.

Development Costs Through March 2009, \$95.4 million has been collected through annual assessments on operating nuclear power plants (doesn't include surcharge rebates); \$82.2 million has been spent on siting, regulation development, public participation and related activities. Estimated total cost including construction: not available at this time.

Disposal Facility Operational The DEC issued financial assurance regulations in September 1991 and regulations for design, construction, operation, closure, post-closure and institutional control in March 1993. NYSERDA is responsible for construction and operation.

West Valley Decommissioning NRC has concluded its technical review of DOE's Phase 1 decommissioning plan for the West Valley Demonstration Project (WVDP), which envisions remediation activities within the WVDP site boundary—including removal of the main plant process building, the vitrification facility, source area of the North Plateau groundwater plume, wastewater treatment facility lagoons, and ancillary buildings, foundations, slabs and pads. Phase 1 activities also include additional characterization of site contamination and studies to support the technical approach to complete site decommissioning. NRC did not identify any objections and determined that there is a reasonable assurance that the proposed action will satisfy the decommissioning criteria for unrestricted use.

The West Valley site is located on 3,300 acres of land known as the Western New York Nuclear Service Center. The WVDP site, which is a 200-acre portion of the center, contains a former commercial nuclear fuel reprocessing facility that operated from 1966 to 1972 and produced approximately 600,000 gallons of liquid high-level radioactive waste (HLW). The bulk of the HLW has been solidified into a glass waste form. The WVDP also contains contaminated structures, waste disposal area, waste tank farm, waste lagoons, and waste storage.

Contact Alyse Peterson, Senior Project Manager, Radioactive Waste Policy and Nuclear Coordination, Energy Research and Development Authority, State of New York, Corporate Plaza West, 17 Columbia Circle, Albany, NY 12203-6399 (phone – 518/862-1090 ext. 3274; fax – 518/862-1091; alp@nyserdera.org)

Unaffiliated States (continued)

North Carolina



Regulatory Responsibility Radiation Protection Section (RPS), North Carolina Department of Environment and Natural Resources

Program and Siting Responsibility none at this time

Disposal Technology under prior plan - integrated vault

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as it ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting In December 1993, the Authority selected a site in Wake County as its preferred site.

Licensing A license application was submitted by Chem-Nuclear to RPS in December 1993. Several problems were identified during the license review and a funding dispute broke out with the Southeast Compact Commission. Subsequently, the state terminated the license review and withdrew from the Southeast Compact. (For additional information, see the "Other Information" section below and the Southeast Compact page of this document.)

Development Costs To date: \$112 million.

Withdrawal from Compact On July 26, 1999, the State of North Carolina enacted legislation which, among other things, (1) withdrew the state from the Southeast Compact, (2) limited the functions of the North Carolina LLRW Management Authority to closing and restoring the proposed disposal site in Wake County and finalizing closure and restoration by June 30, 2002, (3) directed the N.C. Radiation Protection Commission to develop a plan for complying with the state's responsibilities under federal low-level radioactive waste policy, and (4) prohibited the issuance or consideration of a facility license prior to action by the General Assembly.

Litigation On December 9, 1999, the Southeast Compact Commission voted to impose sanctions on North Carolina for violations of the compact agreement. The Commission resolved that the required amounts "shall be paid in full by July 10, 2000." North Carolina did not comply with the resolution and the Commission and several of its member states filed suit against North Carolina before the U.S. Supreme Court. On June 1, 2010, the Court ruled in favor of the defendant State of North Carolina. (For additional information, see page 14.)

Other Information On May 15, 2000, the North Carolina Radiation Protection Commission submitted a report to the General Assembly recommending a new plan for low-level waste management in the state. Among other things, the report (1) advocates a change in national low-level waste disposal policy, (2) endorses opening the disposal market to private industry, & (3) finds that a central disposal facility in the state isn't needed as long as access to treatment facilities and the disposal facility in Clive, Utah remains available, but notes that disposal capacity for Class B and C waste is needed. Subsequently, the North Carolina Low-Level Radioactive Waste Management Authority permanently shut down.

GE Hitachi Uranium Enrichment Application In January 2009, GE-Hitachi Global Laser Enrichment submitted its environmental review for a license application to construct and operate a uranium enrichment plant using laser technology near Wilmington, North Carolina. If approved, the plant would enrich uranium in the fissionable isotope U-235, for use in manufacturing fuel for nuclear power plants. On June 30, 2009, the company submitted the remainder of the application. On April 9, 2009, NRC published its notice of intent to prepare an EIS on the proposed facility and the opportunity for public comment on the environmental factors to be considered in that study. NRC formally docketed the application on August 6, 2009. In January 2010, NRC announced the opportunity for the public to intervene in the agency's review of the application. By Order dated January 7, the Commission set a 30-month schedule for the staff's license review and adjudicatory proceedings of the ASLB.

Contact Lee Cox, Chief of the Radiation Section, Department of Environment and Natural Resources, 3825 Barrett Drive, Raleigh, NC 27609 (phone – 919/571-4141; fax – 919/571-4148; Lee.Cox@nc.denr.gov; www.ncradiation.net)

Unaffiliated States (continued)

District of Columbia



Regulatory Responsibility Department of Health (DOH)

Program Responsibility Bureau of Food, Drug and Radiation Protection, Department of Health

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting Because of the dense population and geographic size of the District of Columbia, and because of the relatively low volume of low-level radioactive waste generated within its borders, DOH is not planning to site a facility. The District of Columbia is continuing efforts either to join a compact or to contract with one.

Contact Gregory B. Talley, Program Manager, Radiation Protection Division, Bureau of Food, Drug, and Radiation Protection, Environmental Health Administration, Department of Health, District of Columbia, 51 N Street, NE, Suite 6025, Washington, D.C. 20002 (phone – 202/535-2320; fax – 202/535-1359; greg.talley@dc.gov; www.dchealth.dc.gov)

Puerto Rico



Puerto Rico is not planning to site a disposal facility. Further information is unavailable at this time.

Rhode Island

Regulatory Responsibility Rhode Island Department of Health



Program Responsibility Rhode Island Atomic Energy Commission

Siting Responsibility none

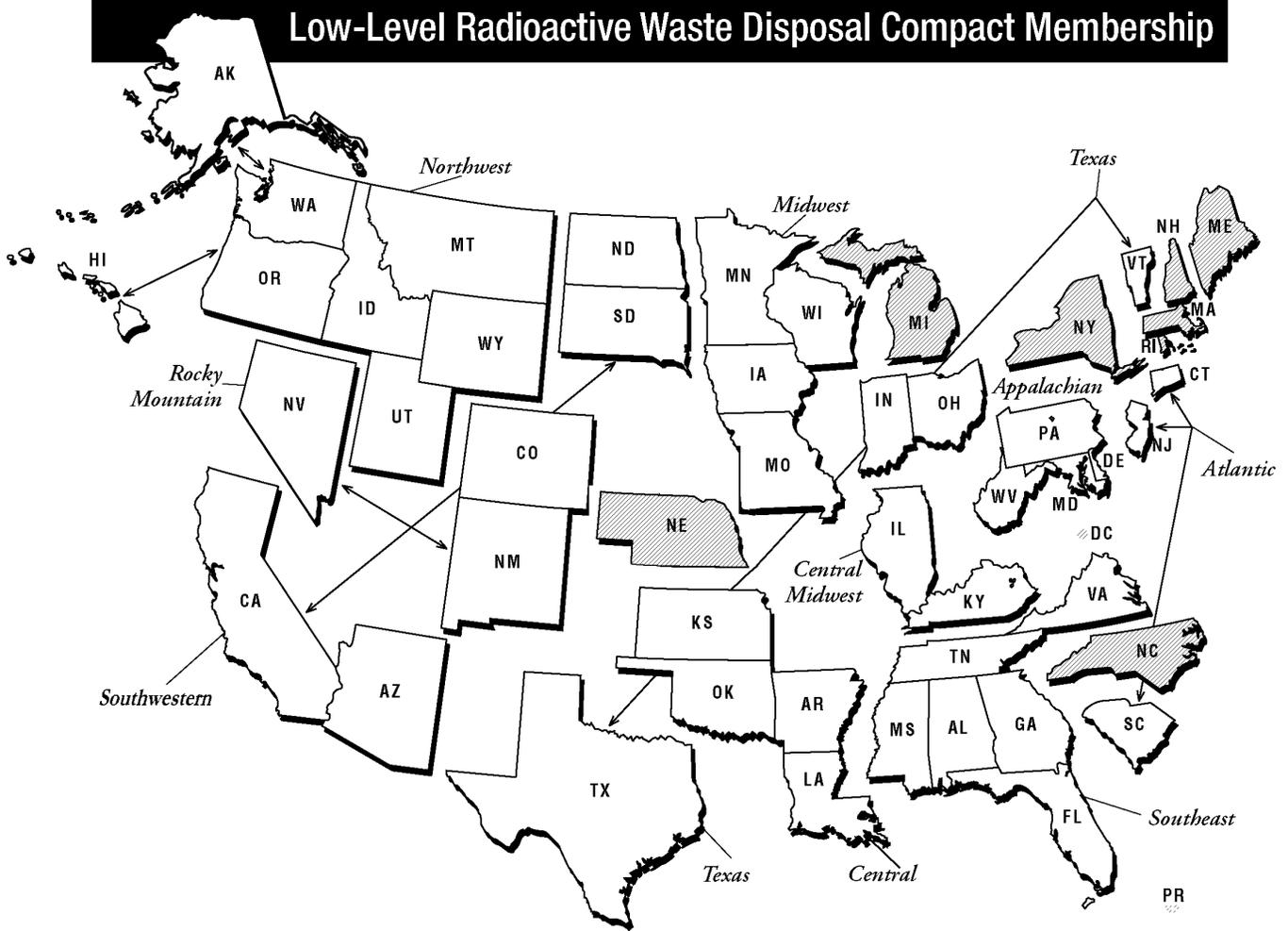
Other Involvement Rhode Island Radiation Advisory Commission

Current Waste Management Use of the EnergySolutions' commercial Class A, B and C LLRW disposal facility in Barnwell, SC has been discontinued, as the Barnwell facility ceased acceptance of non-compact waste as of June 30, 2008. However, certain Class A domestic-generated LLRW may be shipped for disposal at Clive, UT if it meets the license conditions for the EnergySolutions' facility. In addition, certain NARM wastes meeting the State of Washington's conditions can be shipped to US Ecology's commercial disposal facility in Richland, WA. Regional generators presently have no access for the disposal of Class B and C LLRW (and certain Class A waste streams), all of which must be stored at this time.

Siting The state is not planning at this time to site a facility. The Rhode Island Atomic Energy Commission has assumed responsibility for low-level radioactive waste management and compact participation from the Department of Environmental Management effective January 1996.

Contact Terrence Tehan, Director, Atomic Energy Commission, State of Rhode Island, 16 Reactor Road, Narragansett, RI 02882 (phone – 401/789-9391; fax – 401/782-4201; ttehan@gso.uri.edu)

Low-Level Radioactive Waste Disposal Compact Membership



Appalachian Compact

Delaware
Maryland
Pennsylvania
West Virginia

Atlantic Compact

Connecticut
New Jersey
South Carolina

Central Compact

Arkansas
Kansas
Louisiana
Oklahoma

Central Midwest Compact

Illinois
Kentucky

Northwest Compact

Alaska
Hawaii
Idaho
Montana
Oregon
Utah
Washington
Wyoming

Midwest Compact

Indiana
Iowa
Minnesota
Missouri
Ohio
Wisconsin

Rocky Mountain Compact

Colorado
Nevada
New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts

Southeast Compact

Alabama
Florida
Georgia
Mississippi
Tennessee
Virginia

Southwestern Compact

Arizona
California
North Dakota
South Dakota

Texas Compact

Texas
Vermont

Unaffiliated States

District of Columbia
Maine
Massachusetts
Michigan
Nebraska
New Hampshire
New York
North Carolina
Puerto Rico
Rhode Island