

# *LLW Forum*

# Meeting Report

Tuesday, Wednesday, Thursday, Friday  
February 9–12, 1999  
San Diego, California

*The Low-Level Radioactive Waste Forum met in San Diego, California, on February 9–12, 1999. Twenty-seven Forum Participants, Alternate Forum Participants, and meeting designees representing 20 compacts, host states, and unaffiliated states participated.*

*Additional information was provided by 14 resource people from, variously, the States of New Jersey and New Mexico; the Department of the Army; DOE and DOE's National Low-Level Waste Management Program; NRC; the U.S. General Accounting Office; EPRI; Chem-Nuclear Systems, Envirocare of Utah, and Waste Control Specialists; and Duke Energy Corporation and Southern California Edison Company.*

*Also in attendance, as observers, were five other state and compact officials; two staff members from DOE's National Low-Level Waste Management Program; one staff person from NRC's Advisory Committee on Nuclear Waste; one U.S. General Accounting Office staff person; and 11 representatives of other interested parties, including a regional generators' organization, two generators, a disposal facility operator, one California anti-nuclear group, two private companies, one private attorney, and one private consultant.*

*A report on the meeting follows.*

# Low-Level Radioactive Waste Forum Meeting Report

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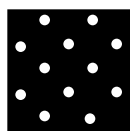
As a result of a decision made unanimously by LLW Forum Participants in May 1997, the *Low-Level Radioactive Waste Forum Meeting Report* for each meeting is now printed in a single version and distributed as a document accompanying *LLWNotes*. The meeting report includes a condensed attendance list. An expanded list including full titles is distributed to the Executive Committee and the State of Washington contract officer, and is available on request to other Forum Participants.

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The Low-Level Radioactive Waste 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.



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## Key to Abbreviations

U.S. Department of Energy	DOE
U.S. Environmental Protection Agency	EPA
U.S. General Accounting Office	GAO
U.S. Nuclear Regulatory Commission	NRC
naturally-occurring and accelerator-produced radioactive materials	NARM
naturally-occurring radioactive materials	NORM

## New Developments in States and Compacts

Forum Participants reported on recent events, including

- election of new Governors;
- discussions concerning the possible reentry of South Carolina into the Southeast Compact for Low-Level Radioactive Waste Management;
- consolidation of operations by the Appalachian States Low-Level Radioactive Waste Commission as a result of the suspension of the siting process in Pennsylvania; and
- litigation regarding enforcement of the Rocky Mountain Low-Level Radioactive Waste Compact.

A written report was submitted by the Central Interstate Low-Level Radioactive Waste Commission concerning Nebraska regulators' denial of the license application for a regional low-level radioactive waste disposal facility, subsequent administrative challenges and litigation, the commission's response to the denial, and Nebraska legislative action relevant to the Central Compact.

## Envirocare Access and License Changes

**Northwest Compact's Policy re Access** Michael Garner of the Northwest Interstate Compact on Low-Level Radioactive Waste Management provided information on the compact committee's adoption of a second amended resolution and order governing access to the disposal facility operated by Envirocare of Utah.

**State Relicensing for Radioactive Material** Cynthia Norris, the Forum State/Compact Liaison, summarized changes made to Envirocare's radioactive material license when it was renewed by the State of Utah in October 1998.

**Pending Action on Special Nuclear Materials Exemption from NRC** James Kennedy of the U.S. Nuclear Regulatory Commission explained the rationale for and history behind NRC's decision that it will exempt Envirocare from certain regulations concerning possession of special nuclear material (SNM). He also described the prerequisites for the issuance of the exemption order.

Discussion ensued concerning studies that have been performed at other facilities confirming the extremely low potential for reconcentration of SNM after disposal.

## Consideration of Proposal to Dispose of LLRW at Safety-Kleen Facility in Utah

Todd Lovinger, the Forum Legal Clearinghouse Director, reported on a proposal by Safety-Kleen to dispose of low-level radioactive waste at its facility in the State of Utah. Lovinger described the existing facility and provided an overview of the licensing process, including the status of state and local approvals. He also referred Forum Participants to the "Summary of Low-Level Radioactive Waste Disposal Options" chart prepared by Afton Associates under contract for the Midwest Interstate Low-Level Radioactive Waste Compact Commission.

Following the presentation, several Forum Participants expressed an interest in receiving a project status update on the Safety-Kleen facility at the next LLW Forum meeting.

## Processing/Disposal of LLRW at Mill Tailings Sites

**Current Regulatory Regime** Holmes Brown, the Forum Facilitator, discussed the impact of the Low-Level Radioactive Waste Policy Act on proposals to dispose of low-level radioactive waste at mill tailings sites. Following Brown's presentation, James Kennedy of the U.S. Nuclear Regulatory Commission gave a brief overview of NRC's policy on this issue, referring Forum Participants to a September 22, 1995 *Federal Register* notice on such matters. Kennedy then briefly reviewed the nine criteria established in the NRC policy for considering such requests.

In addition, Kennedy reported on a separate NRC policy regarding the use of alternate feed materials in uranium mills. His remarks included a discussion of the criteria considered and tests applied to such requests. Following the presentations, Forum Participants asked questions about the types of material targeted by the NRC policies and the elements of affirmation required before a request is granted.

*continued on page 4*

**Proposal by National Mining Association** Leonard Slosky of the Rocky Mountain Compact reported on a white paper prepared by the National Mining Association and subsequently submitted to NRC for consideration. Slosky reviewed the four recommendations contained in the white paper, including a recommendation that NRC remove the requirement in its existing policy that petitioners submit documentation of approval from the compacts of origin and destination before waste can be disposed of at the licensee's facility. In response to questions from Forum Participants, Kennedy then provided a brief overview of the process for NRC consideration of the National Mining Association's recommendations, including current status of the review.

**White Mesa Facility in Utah** Kennedy gave an overview of a request by the White Mesa Facility for NRC authorization to dispose of alternate feed materials at its facility in the State of Utah. Kennedy's report included a review of jurisdictional and procedural issues and briefly touched upon objections filed by the State of Utah. Kennedy then reported on a hearing that is currently being conducted on the matter.

Following the presentation, Forum Participants asked several questions and commented upon a recent petition by the Natural Resources Defense Council to have NRC regulate FUSRAP. Leonard Slosky then raised a related issue concerning a proposed rulemaking by the U.S. Environmental Protection Agency to authorize the disposal of certain low-level radioactive wastes at hazardous waste facilities licensed under the Resource Conservation and Recovery Act (RCRA). Several Forum Participants expressed an interest in hearing additional information about the EPA rulemaking at the next LLW Forum meeting.

## Impact of Utility Deregulation on LLRW Management in California

### **Overview of California's Electricity Restructuring**

Eric Goldin of Southern California Edison summarized the history to date of utility deregulation in California and explained how provision of services has changed as a result. He noted that California is one of the states that is relatively advanced in terms of instituting deregulation.

**Economics of Plant Operation** Goldin discussed the costs involved in providing nuclear power and showed how pricing works in the new market.

**LLRW Disposal** Goldin reviewed the shifts in low-level radioactive waste disposal volumes and prices that have occurred since 1980. Given the relatively small percentage of operating costs that waste disposal constitutes for an average nuclear plant, Goldin observed that waste management has changed little as a result of deregulation.

**Decommissioning** Goldin pointed out that disposal costs are a significant portion of the price of decommissioning, and he stressed the importance of access to disposal capacity for decommissioning wastes.

## The Future of Barnwell

**Chem-Nuclear Systems' Plans** George Antonucci of Chem-Nuclear Systems explained the basis for the development and subsequent withdrawal of the company's long-term initiative to ensure extended access to the low-level radioactive waste disposal facility at Barnwell. He then described the system of access fees charged by the company to help defray shortfalls in disposal taxes collected to fund South Carolina's higher education scholarship grants program.

**Policy and Pending Legislation** John Clark of the State of South Carolina discussed public opinion about the Barnwell facility and noted the relatively minor role that debate about the facility played in the 1998 gubernatorial campaign. He then described the status of two bills concerning Barnwell that are pending in the South Carolina General Assembly and explained some of the factors that might affect their likelihood of passage.

Senator Phil Leventis, who is sponsor of one of the bills, provided additional information on the legislation and discussed other issues related to the facility.

## General Accounting Office Report on Commercial LLRW Management

Dwayne Weigel of the U.S. General Accounting Office provided an update on the progress of a report that GAO is preparing at the request of Senator Frank Murkowski (R-AK), Chair of the U.S. Senate Committee on Energy and Natural Resources. Weigel described the origin and scope of the request and provided information on the process being used to obtain facts and develop the report. He also commented on a review process for the final report and the timing of its issuance.

## Relicensing a Nuclear Power Plant: Procedures, Economics, and Waste Stream Projections

**Federal Regulatory Process: Requirements, Timing, Public Participation** James Kennedy of the U.S. Nuclear Regulatory Commission gave a broad overview of NRC policy regarding the relicensing of nuclear power plants. During his report, Kennedy addressed NRC and operator considerations, including safety and economic factors. He discussed the contents and status of the two relicensing applications that are currently pending—one from the Duke Oconee Nuclear Power Plant in South Carolina, the other from the Calvert Cliffs Nuclear Power Plant in Maryland—and the likelihood of additional applications being submitted. Finally, Kennedy addressed NRC's streamlined process for reviewing relicensing applications and the opportunity for public involvement.

**Relicensing Duke Energy: Decision Factors and Impact on Future Waste Streams and Volumes** Greg Robison of Duke Energy discussed the relicensing submittal for the Duke Oconee plant. In so doing, Robison reviewed the five concerns/risk categories considered by the company in making its decision to apply for relicensing and the results of those considerations. He then discussed preparation of the environmental impact statement (EIS) and the inclusion of low-level radioactive waste considerations in the EIS. Robison also addressed economic considerations, primary concerns/impacts, and near-term challenges that were factored into the final decision to apply for relicensing.

**Discussion** Forum Participants asked various questions about the NRC review process, the consideration of decommissioning and spent fuel storage factors in the decision to relicense a nuclear power plant, and factors regarding timing of application preparation and review, and projected costs.

## EPRI Projects

Carol Hornibrook of EPRI reported on the organization's current research efforts in the liquid processing and decommissioning fields. Hornibrook discussed EPRI's decommissioning waste minimization guideline, being developed for industry use. She also mentioned a recently released EPRI code called waste works, which is an industry tool used to help determine the cost effectiveness of specific disposal options.

## DOE Policy on Use of Commercial LLRW Disposal Facilities

**Current Policy** Greg Duggan of the U.S. Department of Energy reported on the department's review of its policy regarding the use of commercial low-level radioactive waste disposal facilities. Duggan reviewed the elements of the current policy, including the requirements that must be satisfied before a commercial facility can be used. He also gave projections on the amount of waste DOE is expected to send to commercial facilities over the life of the program.

**Requests for Change: WCS and Deer Trail** Duggan provided background information on a proposal by Waste Control Specialists whereby DOE would use its Atomic Energy Act authority to regulate the company's facility in Andrews County, Texas. He also provided background information on a proposal by Laidlaw to use a portion of its Deer Trail hazardous waste facility for the disposal of DOE low-level radioactive waste.

**Status and Timing of Policy Review** Duggan referred Forum Participants to a March 19, 1998 *Federal Register* notice announcing DOE's plans to conduct an analysis of its current policy on the use of commercial facilities. He then described five options examined in the policy analysis and explained the criteria to be applied in examining the options. Following Duggan's presentation, Forum Participants asked several questions. Leonard Slosky then gave a brief update on issues related to the Deer Trail proposal and DOE's request for consultation with the Rocky Mountain Compact.

**Disposal of Exempt Material at WCS Facility** James Kennedy of the U.S. Nuclear Regulatory Commission reported on a proposal by Waste Control Specialists to dispose of what the company termed “unimportant quantities of source material” at its facility in Andrews County, Texas. Kennedy reviewed the issues raised in the proposal, NRC’s consideration of the issues, and the basis for NRC’s limited grant of the request. Kennedy then gave a broader report on the regulatory basis for the exemption of source material from NRC authority under specific circumstances, and discussed the health and safety considerations involved. Kennedy also provided a definition for “unimportant quantity of source material” under NRC regulations.

Following Kennedy’s presentation, Forum Participants asked several questions about jurisdictional and other issues and offered additional input and comment.

### Waste Attribution After Processing: Whose Atom is it?

**Concerns re Current Method of Attribution** Mike Mobley of the State of Tennessee reported on concerns raised to him by treatment and processing facilities regarding the current practice of attributing waste volumes to the original generator in the majority of instances. Mobley described difficulties at processing facilities in handling, storing, and accessing volumes under the current methodology. He also explained concerns regarding increases in exposure of operating personnel and the introduction of complexity into operations.

**Proposal for Alternative Method of Attribution** Mobley explained that Tennessee is considering a revision in its previous considerations as to what is “easily attributable” to allow further consideration of operational impacts involving exposure to employees and long-term storage of waste. He then requested that Forum Participants comment on the possible impacts to their states and compacts from such a revision to current practice.

**Discussion** Discussion followed, during which time Forum Participants addressed, among other things, the following issues:

- health and safety concerns;
- the previous, current, and preferred methods for attribution of waste sent from treatment and processing facilities around the country to the Envirocare of Utah facility;
- the method of attribution of waste sent to the Barnwell facility in South Carolina;
- implications of NRC’s uniform manifest rule on methods of attribution;
- implications of methods of attribution on the ability of states and compacts to track waste and whether or not there still exists a need to track volumes;
- attribution methodologies to be applied to waste that is sent to treatment and processing facilities by the U.S. Department of Energy;
- implications of economic and license limitations to the application of attribution methodologies; and
- implications of attribution methodologies to export authority.

### Executive Session

**1998 Financial Report** M. A. Shaker, Forum Management Advisor, reported that the LLW Forum ended the year on budget. The LLW Forum accepted the report.

**1999 Budget Projection** M. A. Shaker reviewed the 1999 budget by task and answered questions from Forum Participants.

**Contractor Management** Kathryn Haynes, Forum Convenor, reported that the U.S. Department of Energy had not yet released to the State of Washington three-quarters of the funds for 1999, but that Washington officials were continuing to work on the matter.

**2000-2002 DOE Grant Application** (Forum Participants discussed this matter without LLW Forum staff present.) Marcia Marr reported that a request for funding from the U.S. Department of Energy was made on January 5, 1999, by the State of Illinois on behalf of the LLW Forum and that the Department had not yet responded to the request. It was reported that DOE Idaho Program Director Greg Duggan had stated to the Executive Committee that a response might not be available until the fall of 1999. It was further noted that a competitive Request for Proposal must be let by the State of Illinois by June 1999 in order for a contractor to be in place to provide LLW Forum service when the current State of Washington management contract runs out on December 31, 1999.

### LLW Forum Business Session

**Staff Report** M. A. Shaker reported that in 1998 LLW Forum staff

- provided individualized information by phone, fax, mail or e-mail to Forum Participants and Alternate Forum Participants, state and compact officials, state organizations, federal officials, and members of the press over 997 times;
- e-mailed or faxed information on national and regional news articles, radio and television broadcasts, and Internet postings to Forum Participants and Alternate Forum Participants, state and compact officials, state organizations, and federal officials over 1,625 times;
- faxed 42 *News Flashes* and posted them on the Internet; and
- faxed or e-mailed 84 special memos to alert Forum Participants to urgent matters.

Shaker noted that the heavy volume of e-mail, *News Flashes*, and faxes is directly attributable to specific events in 1998 including the election of a new Governor in South Carolina, the policy considerations of the Northwest Compact, the licensing decisions in Nebraska and Texas, and litigation.

Shaker further reported that LLW Forum staff

- published eight newsletters with a total of 316 pages;
- published two 20-page summary reports of state and compact activities;
- published three meeting reports—two 16 pages long and one 12 pages long; and
- provided liaison with other groups including the National Governors' Association, the Western Governors' Association, the Host State Technical Coordinating Committee (TCC), the National Conference of State Legislatures, the Environmental Council of the States, the National Environmental Justice Advisory Committee, the Nuclear Energy Institute, the National Academy of Sciences, and the Health Physics Society.

Shaker indicated that staff have also been tracking developments with non-regional sites and facilities such as Safety-Kleen in Utah, Envirocare of Texas, Waste Control Specialists of Texas, mill tailings sites and similar facilities. Staff anticipate that in 1999 there will continue to be considerable interest in these sites, as well as in events in South Carolina, Texas, Nebraska and California.

**Executive Committee Report** Forum Convenor Kathryn Haynes reported on a number of LLW Forum projects and liaison activities. She noted that Forum Participants plan to meet in March 1999 with federal officials and staff of Governors in Washington, D.C.

**Election of Convenor** On the nomination by Leonard Slosky, made on behalf of the Executive Committee, the LLW Forum unanimously approved the election of

Kathryn Haynes of the Southeast Compact to be Forum Convenor for calendar year 1999.

**Election of Alternate Convenor** On the nomination by Leonard Slosky, made on behalf of the Executive Committee, the LLW Forum unanimously approved the election of

Janice Deshais of the Northeast Interstate Low-Level Radioactive Waste Compact to be Forum Alternate Convenor for calendar year 1999.

**Election of Executive Committee** On the nomination by Leonard Slosky, made on behalf of the Executive Committee, the LLW Forum unanimously approved the election of the following individuals to serve as members of the Forum Executive Committee for calendar year 1999:

Lee Mathews (Texas)

Leonard Slosky (Rocky Mountain Compact)

Thor Strong (Michigan)

Stanley York (Midwest Compact)

The committee includes an ex officio member,

Doug Mosich (Washington)

**Resolution on NRC's Final Revised Guidance on Disposal of Non-Atomic Energy Act of 1954, Section 11e.(2) Byproduct Material in Tailings Impoundments** This resolution was introduced by Leonard Slosky and seconded by John Clark. The resolution was tabled until Friday, February 12, when it was adopted unanimously.

**Resolution on Request for Clarification of Envirocare Data as Included on the Manifest Information Management System (MIMS)** This resolution was introduced by Carol Amick and seconded by Terry Tehan. The resolution was adopted unanimously on Friday, February 12, after the addition of two amendments.

**Resolution on Considering the Establishment of a Working Group on Assured Isolation** This resolution was introduced by Carol Amick and seconded by Janice Deshais. The resolution was adopted on Friday, February 12. (See page 10.)

**Motion to Express Appreciation to NRC Staff** This resolution was introduced by Janice Deshais and seconded by Carol Amick. The resolution was adopted on Thursday, February 11. (See page 10.)

**Meetings Schedule** Cynthia Norris, Forum Program Director, provided information on the upcoming 1999 meetings of the LLW Forum.

Michael Garner and Doug Mosich reported on the results of a straw ballot of Forum Participants to determine the number and location of LLW Forum meetings in the year 2000. LLW Forum meetings will be held in 2000 in San Diego, California, in February/March and in Annapolis, Maryland, in October.

**Resolution on NRC's Final Revised Guidance on Disposal of Non-Atomic Energy Act of 1954, Section 11e.(2) Byproduct Material in Tailings Impoundments (Number 99.2.1)**

*Adopted on February 12, 1999*

Whereas, In September 1995, the U.S. Nuclear Regulatory Commission published two uranium mill licensing guidance documents at 60 *Federal Register* 49,296 (September 22, 1995); and

Whereas, The final revised guidance sets forth guidelines for staff to follow in reviewing licensee requests for the disposal of wastes other than Atomic Energy Act of 1954, Section 11e.(2) byproduct material in tailings impoundments; and

Whereas, NRC is currently reviewing the final revised guidance pursuant to a request from the National Mining Association; therefore, be it

***Resolved, That the Low-Level Radioactive Waste Forum encourages NRC not to change the language contained in section 8 of the guidance stating that non-11e.(2) byproduct material should not be considered as a candidate for disposal in a tailings impoundment unless, among other things, "[t]he 11e.(2) licensee ... provide[s] documentation showing approval by the Regional Low-Level Waste Compact in whose jurisdiction the waste originates as well as approval by the Compact in whose jurisdiction the disposal site is located."***



**Resolution on Request for Clarification of Envirocare Data as Included on MIMS  
(Number 99.2.2)**

*Adopted on February 12, 1999*

Whereas, The U.S. Department of Energy's National Low-Level Waste Management Program began posting information concerning shipments of commercial low-level radioactive waste to facilities at Hanford, Washington, and Barnwell, South Carolina, in January 1986; and

Whereas, On February 15, 1996, the Low-Level Radioactive Waste Forum unanimously passed a resolution requesting the National Low-Level Radioactive Waste Management Program to include low-level radioactive waste disposal data from Envirocare of Utah in the national Manifest Information Management System (MIMS), the data to be presented so as to identify commercial low-level radioactive waste; and

Whereas, In August 1996, the LLW Forum communicated directly with Envirocare to request that the company cooperate with DOE to provide the information in the format requested; and

Whereas, On February 13, 1998, the LLW Forum unanimously resolved that, "in the event that the information is so provided, the LLW Forum thanks DOE's National Low-Level Waste Management Program and Envirocare for their response to the [February 15, 1996] request;" and

Whereas, In October 1998, the NLLWMP began posting information concerning shipments of commercial low-level radioactive waste to Envirocare on MIMS; and

Whereas, Data being provided to the NLLWMP by Chem-Nuclear and U.S. Ecology includes information identifying the original generator of shipments of commercial low-level radioactive waste if the origin of the waste is easily attributable; and

Whereas, It has come to the attention of the LLW Forum that the data currently being provided to the NLLWMP by Envirocare of Utah often does not include information identifying the original generator of commercial LLRW, even when the origin of the waste is easily attributable; and

Whereas, Such information is essential to the LLRW management efforts of states and compact regions; and

Whereas, The provision of such information is consistent with implementation of NRC regulations concerning low-level radioactive waste shipment manifest information and reporting; therefore, be it

***Resolved, That the LLW Forum asks that, beginning with information for January 1998, Envirocare of Utah provide, in a timely fashion to the NLLWMP, data that includes identification of the original generator of all shipments of commercial LLRW to that facility if the origin of the waste is easily attributable.***

***Resolved, That the LLW Forum asks that the information be posted on MIMS in a way that the state of origin and type of the original generator can be readily identified.***

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**Resolution on Considering the Establishment  
of a Working Group on Assured Isolation  
(Number 99.2.3)**

*Adopted on February 12, 1999*

**Resolved, That the Forum Executive Committee consider the possibility of establishing a working group, or some other entity, composed of Forum Participants and Alternate Forum Participants, to pursue issues regarding assured isolation and the studies being undertaken by Connecticut and others.**

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**Resolution Expressing Appreciation for the  
Work of James Kennedy of the Nuclear  
Regulatory Commission Staff  
(Number 99.2.4)**

*Adopted on February 11, 1999*

Whereas, The Low-Level Radioactive Waste Forum recognizes and values its close working relationship with staff of the U.S. Nuclear Regulatory Commission; and

Whereas, The Low-Level Radioactive Waste Forum believes that this relationship is vital to the efforts by states and compacts to successfully implement the Low-Level Radioactive Waste Policy Act and its Amendments; and

Whereas, James Kennedy of NRC's Office of Nuclear Material Safety and Safeguards has played a crucial role in the development and maintenance of a productive working relationship between the NRC and the LLW Forum through his activities as a Federal Liaison to the LLW Forum and through his regular attendance at and participation in LLW Forum meetings; therefore, be it

**Resolved, that the Low-Level Radioactive Waste Forum expresses its strong appreciation for the valuable and essential services provided by James Kennedy on a day-to-day basis and commends him for his many contributions at LLW Forum meetings.**

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## Approaches to Environmental Justice

### **Status of EPA's Environmental Justice Guidance**

Michael Hogan and Nancy Milsten of the State of New Jersey provided a historical perspective on the emergence of environmental justice concerns in the country and their application to facility siting issues. The presentation touched upon Title VI of the Civil Rights Act of 1964, the 1994 Presidential Executive Order on environmental justice issues, the establishment and operation of EPA's Title VI Implementation Advisory Committee, and the development and reaction to EPA's interim guidance.

Hogan and Milsten then addressed the development of EPA's revised interim guidance on environmental justice. They described the process and explained how the interim guidance is supposed to work from the filing of a complaint to its ultimate disposition. They reviewed the impacts of the guidance on states, compacts, and corporate entities and provided a timeline analysis for application of the process. They concluded by citing the pitfalls evident in the guidance and the negative implications for the successful siting of a low-level radioactive waste disposal facility.

Discussion followed, during which Forum Participants asked questions about various issues, including funding for EPA's program, action on current and prior complaints, and support and opposition to EPA's approach.

### **New Jersey's Alternative Approach to Environmental Justice**

Hogan and Milsten then reviewed in detail New Jersey's proposed alternative approach to addressing environmental equity concerns. New Jersey's proposal involves a state-based collaborative approach between the community, companies, and the New Jersey Department of Environmental Protection that is voluntary in nature. They discussed program goals, progress, cumulative air toxics exposure, and an impacts study of white and non-white areas where facilities have been cited.

Hogan and Milsten then described the following various stages of New Jersey's approach: the pre-permitting stage in which issues are identified and dialog is initiated; the middle stage in which there is a continuation of dialog between the community, department, and industry; and, the final stage in which the parties try to reach consensus. They concluded the presentation with a description of where things stand to date and an explanation of concerns and problems.

**Discussion** Forum Participants asked questions about various issues, including EPA's reaction to the New Jersey approach, expressions of interest from other states, the ability of siting opponents to use environmental equity concerns as a tool to stop the process, the interaction between state agencies, the definition of "cumulative impacts," and the methodology for assessing health risks.

### State/Federal Interaction re DOE Disposal: WIPP Certification and Permitting

#### **Overview: Siting, Certification, and Permitting**

Chris Wentz of the State of New Mexico reviewed the history of the Waste Isolation Power Plant (WIPP) program, including a discussion of the origin of the program and siting issues. Wentz provided a chronology of program events, including considerations of types and origin of eligible waste, congressional reaction and involvement, and state/federal interaction.

**Current Issues/Litigation** Wentz and Ralph Smith of the U.S. Department of Energy's Carlsbad area office reported on some of the ongoing issues concerning the opening of the WIPP facility, including disputes regarding testing issues and jurisdictional concerns. They discussed litigation between the state and federal government over the facility, describing the associated issues and outlining the status of the case. They also reported on additional lawsuits and gave background and status information for each case.

**Proposal for Interim Storage of Transuranic Waste by Private Sector** Smith reported on a private company's proposal for DOE to use the company's facility for the interim storage of transuranic waste in order to meet federal obligations. He noted that DOE headquarters is not supportive of the proposal.

### Facility Development in Texas: What Happened and What's Next?

**Texas Licensing Decision** Lee Mathews of the State of Texas described the basis for state regulators' decision to deny the Texas Low-Level Radioactive Waste Disposal Authority's license application for a disposal facility. He also noted that the Authority's subsequent motion for rehearing on the decision was overruled.

**Next Steps** Mathews outlined the issues and options covered in a briefing document prepared by the Authority for the legislature. He also reported on recent legislative testimony and plans to provide further information to the legislature. He concluded by summarizing significant provisions of pending and expected state legislation concerning low-level radioactive waste management.

### Question-and-Answer Session with Current and Prospective LLRW Disposal Facility Operators

Brief opening statements about business activities and capabilities were made by William Dornsife of Waste Control Specialists, Charles Judd of Envirocare, and George Antonucci of Chem-Nuclear Systems. The remainder of the session was devoted to responding to Forum Participants' questions on a multiplicity of issues including litigation, DOE waste, decommissioning waste, contracts, and waste title.

### Army Waste Management: Clients, Volumes, Treatment, and Disposal

Kristine Bell Preston of the Department of the Army discussed the Department of Defense's (DOD) charter making the Army responsible for low-level radioactive waste disposal. She mentioned that the DOD is in the process of drafting a regulation in order to codify this charter. Additionally, she discussed the Army's current clients, and remarked on their volumes and treatment and disposal practices. Finally, Bell Preston discussed the Army's early success with the tritium recycling pilot program being conducted with Lawrence Livermore National Laboratory. She noted that their success has resulted in a four-year tritium recycling agreement with the laboratory.

## Forum Participants' Conversation with the General Accounting Office

**Responses to GAO Questions** Forum Participants participated in an interactive dialog with staff of the U.S. General Accounting Office, during which time they provided responses to the following GAO questions.

### *Suspension of Siting Activities and Recent Developments*

- Several states and compacts have delayed, suspended or halted siting activity. What factors were considered by such states and compacts in making this decision? In light of recent developments—including withdrawal of Chem-Nuclear's long-term initiative, legislative proposals concerning Barnwell, and Envirocare's amended license—will these decisions be revisited? How would states and compacts that have not interrupted siting activities respond if access to Barnwell were terminated?
- What steps are being taken to ensure that states and compacts could restart siting activities should the need arise? How quickly could activities be restarted? Would this be an opportunity to coordinate or consolidate activities?

### *Other Initiatives*

- Considering the relative volumes of waste from the commercial sector and DOE and the interest of private entities in serving both markets, is shared private sector development a way to assure that adequate disposal capacity is available for commercial waste generators?
- What benefits are provided by the compact system that would be lost if private initiatives were pursued (e.g., equity considerations, stability, etc.)? Is the compact system an incentive or disincentive to the development of disposal facilities by private entities?
- Do private entities face obstacles to siting similar or different from those encountered by states and compacts? What are these obstacles?

### *Low-Level Radioactive Waste Policy Amendments Act*

- Is there a need to provide additional incentives that will allow designated host states to move forward on low-level radioactive waste siting efforts? If so, can this be accomplished under current conditions, or would state and/or federal law need to be amended?
- It has been suggested that all federal law on commercial low-level radioactive waste management be repealed. What would be the likely consequences of such a repeal—advantages and disadvantages? How would the states and compacts respond—particularly the Northwest Compact including Washington and Utah, the Texas Compact and Texas, and South Carolina?

### LLW Forum June 1999 Agenda Planning

Cynthia Norris, Forum Program Director, announced the results of the voting on agenda topics for the LLW Forum meeting scheduled for June 2–4 in Jackson, Wyoming.

# Meeting Materials

Document Distribution Key	
<p><sup>P</sup> Forum Participants</p> <p><sup>A</sup> Alternate Forum Participants</p> <p><sup>E</sup> Forum Federal Liaisons</p> <p><sup>L</sup> Forum Federal Alternates</p>	<p><sup>D</sup> LLW Forum Document Recipients</p> <p><sup>N</sup> <i>LLW Notes</i> and <i>Meeting Report</i> Recipients</p> <p><sup>M</sup> Meeting Packet Recipients</p>

- <sup>DM</sup> **Meeting Packet: LLW Forum meeting, February 9-12, 1999.**
- LLW Forum Meeting Agenda.* Afton Associates, Inc. February 1999.
- LLW Forum Schedule-at-a-Glance.* Afton Associates, Inc. February 1999.
- LLW Forum Meeting Preattendance List.* Afton Associates, Inc. February 1999.
- Summary of Low-Level Radioactive Waste Disposal Options.* Afton Associates, Inc. for the Midwest Compact. January 1999.
- Status of Technical Assistance.* DOE's National Low-Level Waste Management Program. February 1999.
- U.S. Commercial Radioactive Waste Classification.* Chart. Afton Associates, Inc. for the LLW Forum. July 1994.
- Letter from Tom Fitzsimmons, Director of the State of Washington's Department of Ecology, to Jack Lemley and Joe Nagel, Chief Executive Officer and Chief Operating Officer respectively for American Ecology Corporation, affirming the state's commitment to the 1985 Low-Level Radioactive Waste Policy Amendments Act. December 17, 1998.
- Texas Low-Level Radioactive Waste Disposal Authority's Motion For Rehearing.* Texas Low-Level Radioactive Waste Disposal Authority. This order requested a rehearing in the decision rendered by the Texas Natural Resource Conservation Commission on October 27, 1998, denying the Authority's license application for construction and operation of a low-level radioactive waste disposal facility. November 1998.
- Presentation on Environmental Justice for Low-Level Radioactive Waste Forum.* Michael Hogan, Chief Counsel, and Nancy Milsten, Special Assistant for Alternative Dispute Resolution, State of New Jersey's Department of Environmental Protection. Background information on New Jersey's approach to the EPA Title VI Interim Guidance.
- "Notice of Intent to Conduct Policy Analysis; Request for Public Comment," 63 *Federal Register* Number 53, pp. 13396-13398. DOE. March 19, 1998. Action: Notice. At the time, this notice requested comments on DOE's policy regarding the disposal of DOE's low-level radioactive wastes and mixed low-level radioactive wastes at commercial disposal facilities. This notice contains summary information on the aforementioned policy.
- <sup>PA</sup> **Materials Distributed at the LLW Forum Meeting**
- Central States Compact Report.* Prepared by A. Eugene Crump, then-Executive Director, Central Interstate Low-Level Radioactive Waste Commission, for the LLW Forum meeting in San Diego, California. February 1999. Outlines the status of activities in the Central Compact, including information on the license denial, current litigation involving the Central Compact, and pending legislation.
- "Uranium Mill Facilities, Notice of Two Guidance Documents: Final Revised Guidance on Disposal of Non-Atomic Energy Act of 1954, Section 11e.(2) Byproduct Material in Tailings Impoundments; Final Position and Guidance on the Use of Uranium Mill Feed Materials Other Than Natural Ores," 60 *Federal Register* Number 184, pp. 49296-49297. NRC. September 22, 1995. Action: Notice of Final Guidance.

## Meeting Materials *continued*

*Many Faces, One Family: The New Jersey Approach to Environmental Equity.* Hard copies of slides presented by Michael Hogan, Counselor to the Commissioner, and Nancy Milsten, Special Assistant for Alternative Dispute Resolution, State of New Jersey's Department of Environmental Protection, at the LLW Forum meeting in San Diego, California, on February 11, 1999. Provides information on New Jersey's environmental equity program.

*Environmental Justice EPA Title VI Interim Guidance.* Hard copies of slides presented by Michael Hogan, Counselor to the Commissioner and Nancy Milsten, Special Assistant for Alternative Dispute Resolution, State of New Jersey's Department of Environmental Protection, at the LLW Forum meeting in San Diego, California, on February 11, 1999. Contains background information on EPA's Interim Guidance for investigating Title VI complaints.

<sup>DM</sup> ***Materials Distributed with the LLW Forum Meeting Report, February 9-12, 1999.***

*Impact of Utility Deregulation on LLRW Management in California.* Hard copies of slides presented by Eric Goldin, Health Physics and Environmental Supervisor, Southern California Edison Company, at the LLW Forum meeting in San Diego, California, on February 10, 1999. Discusses the impact of utility deregulation.

*Relicensing Oconee Nuclear Station: Decision Factors and Impact on Future Waste Streams.* Hard copies of slides presented by Gregory Robison, Project Manager of the License Renewal Project Team for Duke Energy Corporation, at the LLW Forum meeting in San Diego, California, on February 10, 1999. Contains information on the decision factors in determining whether or not to relicense Oconee Nuclear Station, including environmental and economic evaluations.

*DOD Low-Level Radioactive Waste (LLRW) Program.* Hard copies of slides presented by Kristine Bell Preston, Program Analyst for the Radioactive Waste Disposal Division, U.S. Department of the Army, at the LLW Forum meeting in San Diego, California, on February 12, 1999. Provides information on DOD contractors, processing and treatment options, and the new tritium recycling program.

*The Future of Barnwell.* Hard copies of slides presented by George Antonucci, Director, Disposal Services and Special Projects, Chem-Nuclear Systems, at the LLW Forum meeting in San Diego, California, on February 9, 1999.

*Chronology of the WIPP Project.* A summary of key events and decisions relating to the Waste Isolation Pilot Plant (WIPP).

### ***Other Resources***

*WIPP Transportation Safety Program Implementation Guide. May 1998.* Prepared cooperatively by the Western Governors' Association (WGA) Technical Advisory Group for WIPP Transport and the U.S. Department of Energy—Carlsbad Area Office. This document "presents the overall transportation issues, objectives, approaches and procedures which were agreed to by the ten western corridor state Governors and DOE through a Memorandum of Agreement signed in 1996." For further information contact the Western Governors' Association at (303)623-9378.

-RTG

# Low-Level Radioactive Waste Forum Meeting Report Attendance

*Low-Level Radioactive Waste Forum Meeting • February 9–12, 1999 • San Diego, California*

## Attendance

### LLW Forum Participants, Alternate Participants and Meeting Designees

#### *Pennsylvania*

Richard Janati Participant, Pennsylvania  
Chief of Nuclear Safety  
Bureau of Radiation Protection  
Department of Environmental Protection  
Commonwealth of Pennsylvania

#### *Central Midwest Compact*

Edward Ford Participant, Central Midwest Compact  
Chair  
Commissioner for Kentucky  
Central Midwest Interstate Low-Level Radioactive  
Waste Commission  
Deputy Secretary Executive Cabinet  
State of Kentucky

Marcia Marr Alternate 1, Central Midwest Compact  
Executive Director  
Central Midwest Interstate Low-Level Radioactive  
Waste Commission  
Policy Analyst  
Division of Low-Level Radioactive Waste  
Management  
Department of Nuclear Safety  
State of Illinois

#### *Illinois*

Michael Klebe Alternate 1, Illinois  
Chief  
Division of Low-Level Waste Management  
Department of Nuclear Safety  
State of Illinois

#### *Midwest Compact*

Stanley York Participant, Midwest Compact  
Chair  
Commissioner for Wisconsin  
Midwest Interstate Low-Level Radioactive Waste  
Compact Commission

Joseph Esker Alternate 1, Midwest Compact  
Vice-Chair  
Commissioner for Minnesota  
Midwest Interstate Low-Level Radioactive Waste  
Compact Commission  
Low-Level Waste Planning Director  
Pollution Control Agency  
State of Minnesota

#### *Northeast Compact*

Kevin McCarthy Alternate 1, Northeast Compact  
Chair  
Commissioner for Connecticut  
Northeast Interstate Low-Level Radioactive Waste  
Commission

Janice Deshais Participant, Northeast Compact  
*Alternate Convenor*  
Executive Director  
Northeast Interstate Low-Level Radioactive Waste  
Commission

#### *Connecticut*

Edward Wilds Participant, Connecticut  
Director  
Division of Radiation  
Bureau of Air Management  
Department of Environmental Protection  
State of Connecticut

Ronald Gingerich Alternate 1, Connecticut  
Director  
Low-Level Radioactive Waste Program  
Connecticut Hazardous Waste Management Service  
State of Connecticut

#### *New Jersey*

Michael Hogan Participant, New Jersey  
Counselor to the Commissioner  
Department of Environmental Protection  
State of New Jersey

# Low-Level Radioactive Waste Forum Meeting Report Attendance *continued*

## ***Northwest Compact***

Michael Garner Participant, Northwest Compact  
Executive Director  
Northwest Interstate Compact on Low-Level  
Radioactive Waste Management  
Policy Analyst  
Technical Assistance and Regulatory Coordination  
Nuclear Waste Program  
Department of Ecology  
State of Washington

## ***Washington***

Doug Mosich Participant, Washington  
Environmental Planner  
Technical Assistance and Regulatory Coordination  
Nuclear Waste Program  
Department of Ecology  
State of Washington

## ***Rocky Mountain Compact***

Leonard Slosky Participant, Rocky Mountain Compact  
Executive Director  
Rocky Mountain Low-Level Radioactive Waste  
Board

## ***Southeast Compact***

Mike Mobley meeting designee, Southeast Compact  
Commissioner for Tennessee  
Southeast Compact Commission for Low-Level  
Radioactive Waste Management  
Director  
Division of Radiological Health  
Department of Environment and Conservation  
State of Tennessee

Kathryn Haynes Participant, Southeast Compact  
*Convenor*  
Executive Director  
Southeast Compact Commission for Low-Level  
Radioactive Waste Management

## ***Southwestern Compact***

Aubrey Godwin Alternate 1, Southwestern Compact  
Vice Chair  
Commissioner for Arizona  
Southwestern Low-Level Radioactive Waste  
Commission  
Director  
Radiation Regulatory Agency  
State of Arizona

Don Womeldorf Participant, Southwestern Compact  
Executive Director  
Southwestern Low-Level Radioactive Waste  
Commission

## ***California***

Carl Lischeske Participant, California  
Manager  
Low-Level Radioactive Waste Program  
Department of Health Services  
State of California

## ***Texas***

Lee Mathews Participant, Texas  
General Counsel  
Low-Level Radioactive Waste Disposal Authority  
State of Texas

## ***Massachusetts***

Carol Amick Alternate 1, Massachusetts  
Executive Director  
Low-Level Radioactive Waste Management Board  
Commonwealth of Massachusetts

## ***Michigan***

Thor Strong Participant, Michigan  
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Low-Level Radioactive Waste Authority  
Department of Environmental Quality  
State of Michigan

## ***Rhode Island***

Terrence Tehan Participant, Rhode Island  
Director  
Atomic Energy Commission  
State of Rhode Island

## ***South Carolina***

John Clark Participant, South Carolina  
Program Manager  
Energy Office  
State of South Carolina

Phil Leventis Alternate 1, South Carolina  
Senator  
South Carolina Senate  
State of South Carolina



# Low-Level Radioactive Waste Forum Meeting Report Attendance *continued*

## Resource Persons

George Antonucci  
Director, Disposal Services and Special Projects  
*Chem-Nuclear Systems, L.L.C.*

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Radioactive Waste Disposal Division  
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Industrial Operations Command  
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William Dornsife  
Vice President  
Nuclear Affairs  
*Waste Control Specialists, LLC*

Gregg Duggan  
Manager, Center of Excellence  
National Low-Level Waste Program  
Idaho Operations Office  
*U.S. Department of Energy*

Eric Goldin  
Supervisor  
Health Physics and Environmental  
*Southern California Edison Company*

Carol Hornibrook  
Project Manager  
Low-Level Waste and Health Physics  
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Low-Level Waste and Regulatory Issues Section  
Low-Level Waste and Decommissioning Projects  
Branch  
Division of Waste Management  
Office of Nuclear Material Safety and Safeguards  
*U.S. Nuclear Regulatory Commission*

Nancy Milsten  
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*U.S. Department of Energy-Carlsbad Area Office*

Dwayne Weigel  
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*U.S. General Accounting Office*

Chris Wentz  
Waste Isolation Power Plant Coordinator  
Energy, Minerals and Natural Resources  
Department  
*State of New Mexico*

## Other Compact and State Officials

### *New Jersey*

Jim Shissias  
Board Member  
Low-Level Radioactive Waste Disposal Facility  
Siting Board  
State of New Jersey  
Environmental Manager  
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Paul Wyszowski  
Chair  
Low-Level Radioactive Waste Disposal Facility  
Siting Board  
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### *Southeast Compact*

Debra Shultz  
Health Physics Manager  
Department of Radiological Health  
State of Tennessee

*Texas Compact*

Uldis Vanags  
Commissioner for Maine  
Texas Low-Level Radioactive Waste Disposal  
Compact Commission  
State Nuclear Safety Advisor  
State Planning Office  
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*South Carolina*

Virgil Autry  
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Bureau of Land and Waste Management  
Department of Health and Environmental Control  
State of South Carolina

**Federal Agency and Commission Officials**

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*DOE/INEEL*

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Lockheed Martin Idaho Technologies Company  
Idaho National Engineering and Environmental  
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William Newberry  
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U.S. Department of Energy National Low-Level  
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Lockheed Martin Idaho Technologies Company  
Idaho National Engineering and Environmental  
Laboratory

*GAO*

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**Other Interested Parties**

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John Vincenti  
Executive Secretary  
Appalachian Compact Users of Radioactive  
Isotopes

Joseph Lyou  
Executive Director  
Committee to Bridge the Gap

*Companies*

Rick Eshe  
President  
Cast Transportation

Lynda Brothers  
Partner  
Davis, Wright, and Tremaine, LLP

Bill Riethle  
Manager  
Duke Engineering and Services

Lawrence Jacobi  
Vice President of Operations and General Counsel  
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Eugene Gleason  
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Envirocare of Utah, Inc.

Al Rafati  
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Business Development  
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Brian Niekerk  
Manager of Regulatory Compliance  
GTS Duratek

Tim Blythe  
Director of Marketing and Sales  
MHF Logistical Solutions, Inc.

*Individuals*

Karen Kimball  
Lobbyist

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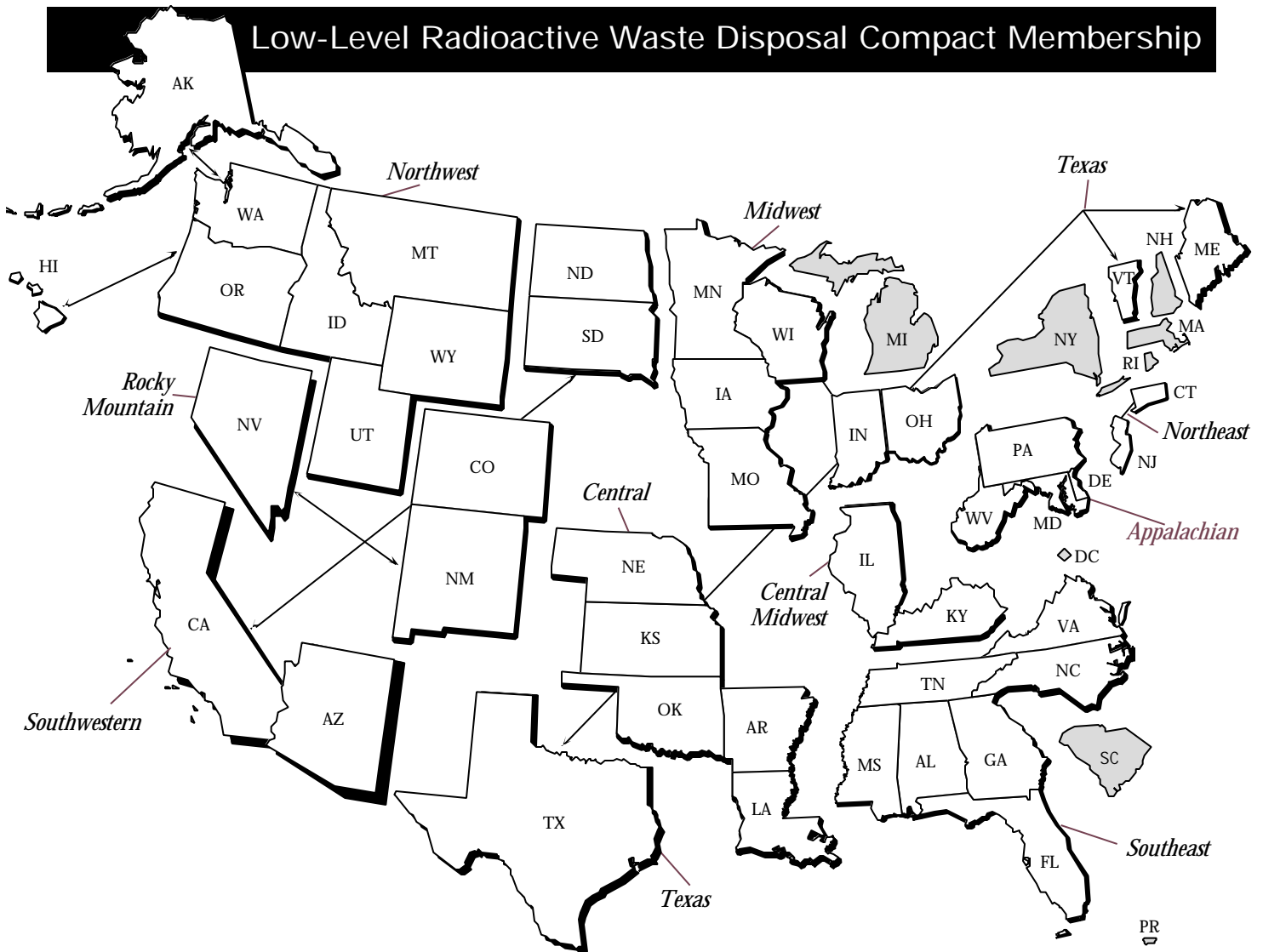
## Receiving *LLW Notes* by Mail

*LLW Notes* and the *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts* are distributed to state, compact, and federal officials designated by LLW Forum Participants or Federal Liaisons.

Members of the public may apply to DOE's National Low-Level Waste Management Program at the Idaho National Engineering and Environmental Laboratory (INEEL) to be placed on a public information mailing list for copies of *LLW Notes* and the supplemental *Summary Report*. Afton Associates, the LLW Forum's management firm, will provide copies of these publications to INEEL. The LLW Forum will monitor distribution of these documents to the general public to ensure that information is equitably distributed throughout the states and compacts.

*To be placed on a list to receive **LLW Notes** and the **Summary Report** by mail, please contact Donna Lake, Senior Administrative Specialist, INEEL at (208)526-0234. As of March 1996, back issues of both publications are available from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, (703)487-8547.*

# Low-Level Radioactive Waste Disposal Compact Membership



## Appalachian Compact

Delaware  
Maryland  
Pennsylvania \*  
West Virginia

## Central Compact

Arkansas  
Kansas  
Louisiana  
Nebraska \*  
Oklahoma

## Central Midwest Compact

Illinois \*  
Kentucky

## Midwest Compact

Indiana  
Iowa  
Minnesota  
Missouri  
Ohio  
Wisconsin

## Northwest Compact

Alaska  
Hawaii  
Idaho  
Montana  
Oregon  
Utah  
Washington \* •  
Wyoming

## Rocky Mountain Compact

Colorado  
Nevada  
New Mexico

*Northwest accepts Rocky Mountain waste as agreed between compacts.*

## Northeast Compact

Connecticut \*  
New Jersey \*

## Southeast Compact

Alabama  
Florida  
Georgia  
Mississippi  
North Carolina \*  
Tennessee  
Virginia

## Southwestern Compact

Arizona  
California \*  
North Dakota  
South Dakota

## Texas Compact

Maine  
Texas \*  
Vermont

## Unaffiliated States

District of Columbia  
Massachusetts  
Michigan  
New Hampshire  
New York  
Puerto Rico  
Rhode Island  
South Carolina •

The Low-Level Radioactive Waste Forum includes a representative from each regional compact, each designated future host state of a compact \*, each state with a currently operating facility •, and each unaffiliated state.

