LLW notes

Volume 26, Number 2 March/April 2011

Texas Compact/State of Texas

Status Update re Waste Related Bills Pending in Texas

Senate Approves SB 1504 and SB 1605 with Amendments
HB 2184 Clears House Committee on State Affairs, as Amended

Below, for your information and convenience, please find a brief status update on four separate bills introduced during the current legislative session in Texas that include provisions concerning low-level radioactive waste management, as well as one pending bill that includes provisions regarding funding for the Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDCC).

For background information on the bills as introduced, please see LLW Forum News Flash titled, "Waste Bills Introduced During Texas Legislative Session," March 18, 2011. Persons interested in more detailed information are directed to the text of the proposed legislation themselves.

Interested parties may also track bills on-line at http://www.capitol.state.tx.us/.

Article 6 of SB 657 (TCEQ Sunset Bill)

Status Update

SB 657 (TCEQ Sunset Bill) was filed on March 9, 2011. The bill—which was introduced by Texas State Senators Glenn Hegar (Republican, 18th District) and Joan Huffman (Republican, 17th District)—was read for the first time on March 16, 2011. It was then referred to the Senate Committee on Natural Resources, where it remains pending.

Brief Overview

SB 657 relates to the continuation and functions of the Texas Commission on Environmental Quality (TCEQ) and abolishing of the On-site Wastewater Treatment Research Council.

As drafted, among other things, Article 6 of the bill would require that compact waste disposal fees adopted by TCEQ be sufficient to provide an amount necessary to support the activities of the TLLRWDCC.

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In This Issue

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The Low-Level Radioactive Waste Forum, Inc. is dedicated to the goals of educating policy makers and the public about the management and disposal of low-level radioactive wastes, and fostering information sharing and the exchange of views between state and compact policy makers and other interested parties.

As part of that mission, the LLW Forum publishes a newsletter, news flashes, and other publications on topics of interest and pertinent developments and activities in the states and compacts, federal agencies, the courts and waste management companies. These publications are available to members and to those who pay a subscription fee.

Current members are allowed to distribute these written materials to a limited number of persons within their particular organization (e.g. compact commissioners, state employees, staff within a federal agency, employees in a commercial enterprise.) It has become clear, however, that there will be instances where members and subscribers wish to share LLW Forum materials with a broader audience of non-members.

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Low-Level Radioactive Waste Forum, Inc.

LLW Notes
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LLW Notes is published several times a year and is distributed to the Board of Directors of the Low-Level Radioactive Waste Forum, Inc. - an independent, non-profit corporation. Anyone - including compacts, states, federal agencies, private associations, companies, and others - may support and participate in the LLW Forum, Inc. by purchasing memberships and/or by contributing grants or gifts. For information on becoming a member or supporter, please go to our web site at www.llwforum.org or contact Todd D. Lovinger - the LLW Forum, Inc.'s Executive Director - at (202) 265-7990.

Directors that serve on the Board of the Low-Level Radioactive Waste Forum, Inc. are appointed by governors and compact commissions. The LLW Forum, Inc. was established to facilitate state and compact implementation of 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, Inc. 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. Department of Transportation	DOT
U.S. Environmental Protection Agency	EPA
U.S. Government Accountability 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

Low-Level Radioactive Waste Forum, Inc.

LLW Forum Resolutions re Disused Sources and Part 61

The Low-Level Radioactive Waste Forum held its spring 2011 meeting at the Perdido Beach Resort in Orange Beach, Alabama. The Central Interstate Low-Level Radioactive Waste Compact Commission and the Southeast Compact Commission for Low-Level Radioactive Waste Management co-sponsored the meeting—which was held on Thursday, March 24, and Friday, March 25. The Executive Committee met on Thursday morning.

During the course of the meeting, the Board of Directors passed two resolutions. The first establishes a working group on disused sources. The second requests that the U.S. Nuclear Regulatory Commission set up a working session with states and compacts on 10 CFR Part 61.

The full text of the resolutions can be found below.

Resolution re Creation of a Formal Working Group on Disused Sources

As the Nuclear Government Coordinating Council (NGCC) and the Nuclear Sector Coordinating Council (NSCC) created in December 2008 the Removal and Disposition of Disused Sources Focus Group (the "focus group") with a mission to:

(1) fully characterize the sealed source disposal challenge,
(2) develop a consensus problem statement,
(3) investigate and recommend immediate- and long-term options, and
(4) recommend to the NSCC and NGCC a messaging strategy for communicating with the appropriate stakeholders to implement a solution;

As the focus group published two deliverables that incorporated the following recommendations:

(1) support ongoing DOE efforts to develop a disposal capacity for GTCC LLRW,
(2) concentration averaging of sealed sources for disposal at existing commercial facilities (including revisiting the Branch Technical Position),
(3) case by case exemption by existing compacts for disposal of discrete numbers of high-risk sealed sources,
(4) physical destruction of Class A sources for disposal as Class A LLRW, and
(5) co-disposal of sources containing foreign-origin americium-241, plutonium-238 and plutonium-239 sources with sources containing domestic material (federal and state governments provide secure storage of sources so that sources can be recovered while simultaneously increasing efforts to investigate disposal options);

As, at the Fall 2010 meeting of the Low-Level Radioactive Waste Forum, Inc. ("LLW Forum") in Saratoga Springs, New York, officials from the National Nuclear Security Administration ("NNSA") requested that the LLW Forum create a formal working group to work with them and other interested stakeholders on a path forward;

As the LLW Forum thereafter created a Steering Committee to gather data and make a recommendation to the LLW Forum Board of Directors;

As the Steering Committee met with officials from NNSA, the U.S. Department of Energy ("DOE"), the U.S. Nuclear Regulatory Commission ("NRC") and the U.S. Department of Homeland Security ("DHS") in Washington, DC in mid-January to gather additional information, during which meeting Steering Committee members (1) expressed concern that front-end

considerations (i.e., improved regulation, exploring potential options for recycle and reuse, examining existing and emerging processing technologies, etc.) need to be addressed in addition to focusing on the back-end (i.e., identifying potential disposition pathways); (2) emphasized that NNSA needs to consult and communicate more fully with the State of Texas regarding the potential disposition of unwanted sources at the planned federal facility in Andrews County, Texas; and, (3) noted that addressing front-end issues first is crucial to any consideration by host states to potential exemptions for problem sources;

As the Steering Committee members unanimously voted to recommend that the LLW Forum's Board of Directors establish a formal working group to study the issue more fully and report back to the LLW Forum's Board of Directors and NNSA with their findings and recommendations, with the caveat that any such working group may not be able to identify ultimate disposal solutions, but rather may simply identify issues for further consideration and make recommendations for a path forward;

Now Wherefore Be it Resolved that, upon formal approval of grant funding from NNSA, the LLW Forum will create a working group, that will use a holistic approach that considers both the front-end and back-end, to study the issue of disused sources and report back to the LLW Forum's Board of Directors and NNSA with its findings including but not limited to potential action items and recommendations;

Now Wherefore Be it Further Resolved that the working group will be 100% funded by NNSA including, but not limited to, reimbursement for travel expenses for working group members and LLW Forum staff, hourly rate for LLW Forum staff time, and hourly rate for contract support such that no LLW Forum funds or resources will be expended on working group activities without the express authorization of the organization's Executive Committee;

Now Wherefore Be it Further Resolved that, although the working group may identify potential disposition options for disused sources, this is not the only goal, nor is it to be considered the measure of success; rather, the working group will seek to clarify the problem, explore challenges associated with management of sealed sources, and develop both front-end and back-end recommendations to address the issue;

Now Wherefore Be it Further Resolved that the following items constitute the preliminary work scope for the working group:

1) Compile information on those sources currently identified as being part of this problem including, but not limited to, the last state or compact in which the sources were put to practical use; LLRW or NARM; disposal pathway available; the waste class (A, B, C or GTCC); and, for what purpose the sealed source was used.
2) Project anticipated future problem sources annually by quantity, radioactivity, waste type, origin and state or compact of last use, and other useful information.
3) Examine what can be done at the front-end to help ensure that organizations that manufacture and purchase/use sources have the means to properly manage/dispose of and/or safely store the sources once used.
4) Explore the ability to reuse/recycle sealed sources including, but not limited to, identifying existing and emerging technologies and limitations thereon.
5) Discuss potential contributions by unaffiliated states and interstate compacts that do not currently have disposal access including, but not limited to, willingness and interest in hosting a secured storage facility.
6) Consider potential disposition options.

Now Wherefore Be it Further Resolved that the working group will seek to complete its work and produce a final report in a 12- to 18-month time frame;

Now Wherefore Be it Further Resolved that the working group may seek input from other stakeholders including, but not limited to, NRC, DOE, NNSA, DHS, the Conference of Radiation Control Program Directors (CRCPD), International Association of Source Suppliers and Providers, brokers and processors, waste disposal facility operators, and generators and users of sealed sources ... although the LLW Forum's Board of Directors (state and compact officials designated by governors and LLRW compact commissions) will retain ultimate control over decision making and the final end-product; and,

Now Wherefore Be it Further Resolved that the working group will produce a final report to be delivered to the LLW Forum's Board of Directors and NNSA that may include, among other things, a problem statement, explanation of issues, and recommendations for a path forward.

Resolution re Request for a Working Session with States and Compacts on 10 CFR Part 61

As the U.S. Nuclear Regulatory Commission (NRC) currently has several rulemaking, guidance and position statement initiatives related to low-level radioactive waste disposal and federal regulations at Title 10, Code of Federal Regulations, Part 61 (10 CFR Part 61);

As all licensed commercial low-level radioactive waste disposal sites in the United States are located in NRC Agreement States, where NRC has ceded their authority for regulation of sites to the respective state regulator;

As all licensed commercial low-level radioactive waste disposal sites in the United States are located in states that are members of a compact;

Now Wherefore Be it Resolved that the LLW Forum hereby requests the NRC to seek specific input on low-level radioactive waste disposal initiatives on 10 CFR Part 61 through one or more dedicated working session with States and Compacts, facilitated by the LLW Forum, that may include among other things, explanation of the issues, goals and potential impacts, and a discussion of possible unintended consequences.

To access information about LLW Forum meetings, please go to www.llwforum.org and scroll down to the first bold paragraph on the Home Page. The documents may also be found on the About Page under the header "Meetings."

For additional information, please contact Todd Lovinger, the LLW Forum's Executive Director, at (202) 265-7990 or at LLWForumInc@aol.com.

Fall 2011 LLW Forum Meeting Registration Now Open

Santa Fe, New Mexico on October 17-18, 2011

The Low-Level Radioactive Waste Forum will host its fall 2011 meeting at the Inn and Spa at Loretto in Santa Fe, New Mexico. The Rocky Mountain Low-Level Radioactive Waste Board and the Midwest Interstate Low-Level Radioactive Waste Compact Commission are co-sponsoring the meeting—which will be held on Monday, October 17, and Tuesday, October 18. The Executive Committee will meet on Monday morning.

A meeting bulletin and registration form can be found on the LLW Forum's web site at www.llwforum.org.

Attendance

Officials from states, compacts, federal agencies, nuclear utilities, disposal operators, brokers/ processors, industry, and other interested parties are invited and encouraged to attend. The meeting is an excellent opportunity to stay up-to-date on the most recent and significant developments in the area of low-level radioactive

waste management and disposal. It also offers an important opportunity to network with other government and industry officials and to participate in decision-making on future actions and endeavors affecting low-level radioactive waste management and disposal.

Registration

All persons must pre-register for the meeting and pay any associated registration fees in order to be allowed entry. Registration forms are needed in order to ensure that you receive a meeting packet and name badge.

Accordingly, interested attendees are asked to please take a moment to complete the registration form at your earliest convenience and return it to Sheri Reynolds of the Rocky Mountain Board at the address, e-mail or fax number listed at the bottom of the form.

Hotel Reservations

Persons who plan to attend the meeting are encouraged to make their hotel reservations and send in their registration forms as soon as possible, as we have exceeded our block at the last few meetings.

A block of 70 rooms has been reserved for Sunday (October 16) and Monday (October 17) for meeting attendees at the special, discounted rate of $88 (single and double occupancy rate) plus tax. The rate is available for three days prior to and after the meeting.

To make a reservation, please call the Inn and Spa at Loretto directly at (800) 727-5531 and ask for a room in the LLW Forum Meeting Block. Please reserve by Friday, September 16, to receive the special, discounted rate.

Transportation

The Inn and Spa at Loretto is located approximately 67 miles from the Albuquerque International Airport in Albuquerque, New Mexico. Shuttle service is available from the Albuquerque airport through Sandia Shuttle at http://www.sandiashuttle.com or at (888) 775-5696. American Airlines Express offers direct flights into Santa Fe Airport, which is approximately 14 miles from the Inn and Spa at Loretto. Shuttle service is available from the Santa Fe Airport through Road Runner Shuttle Express at (505) 424-3367.

To access the meeting bulletin and registration form, please go to www.llwforum.org and scroll down to the first bold paragraph on the Home Page. The documents may also be found on the About Page under the header "Meetings."

For additional information, please contact Todd Lovinger, the LLW Forum's Executive Director, at (202) 265-7990 or at LLWForumInc@aol.com.

Low-Level Radioactive Waste Forum Meetings
2011 and Beyond

The following information on future meetings of the Low-Level Radioactive Waste Forum is provided for planning purposes only. Please note that the information is subject to change.

For the most up-to-date information, please see the LLW Forum's web site at www.llwforum.org.

Fall 2011 Meeting

The Rocky Mountain Low-Level Radioactive Waste Board and the Midwest Interstate Low-Level Radioactive Waste Compact Commission will co-host the LLW Forum's fall 2011 meeting. The meeting will be held at the Inn and Spa at Loretto on October 17-18, 2011. (See related story, this issue.)

2012 Meetings

The Southwestern Low-Level Radioactive Waste Compact Commission and State of California will co-host the spring 2012 meeting of the LLW Forum. The meeting will be held at the Hyatt Regency San Francisco Airport Facility in Burlingame, California on April 24-25, 2012. The hotel—which is rated AAA Four Diamond Award Winning Service & Accommodations—has 24 hr complimentary shuttle service to and from the airport, as well as shuttle service from the hotel to the Bay Area Rapid Transit (BART) station.

The Central Midwest Interstate Low-Level Radioactive Waste Commission has agreed to host the LLW Forum's fall 2012 meeting. This will be the third time that the Commission has hosted a meeting of the LLW Forum since we began operations as an independent, non-profit organization in 2000. As of press time, a date and location for the meeting have not been established.

Search for Volunteer Hosts for 2013 Meetings

The LLW Forum is currently seeking volunteers to host both the spring and fall 2013 meetings and those thereafter. Although it may seem far off, substantial lead-time is needed to locate appropriate facilities.

If your state or compact has not hosted a meeting in the past two years, we ask that you consider doing so. If necessary, we may be able to assist you in finding a co-host.

Non-state and non-compact entities are eligible to co-host LLW Forum meetings, so please let us know if your company or organization is interested in doing so.

Anyone interested in potentially hosting or sponsoring a meeting should contact one of the officers or Todd D. Lovinger, the organization's Executive Director, at (202) 265-7990 or at LLWForumInc@aol.com.

Atlantic Compact Commission/State of South Carolina

Atlantic Compact Chair Benjamin Johnson Resigns

By letter dated February 7, 2011, Benjamin Johnson resigned his position as Chairman of the Atlantic Interstate Low-Level Radioactive Waste Management Compact Commission—effective June 30, 2011. Johnson has served as South Carolina's Commissioner and as the compact's Chairman since its inception in 2000.

The letter, which was addressed to South Carolina Governor Nikki Haley, states in part as follows:

South Carolina ended its role as the nation's low-level nuclear waste landfill in July 2008 and wisely preserved Barnwell's remaining disposal capacity for the next generation of South Carlinians and the decommissioning of our own nuclear plants.

I hope that South Carolina's policy and membership in the Atlantic Compact will remain unchanged for many years to come. With the Barnwell landfill and its shallow land burial method no longer the nation's path of least resistance, I am confident that more advanced solutions will follow.

With Barnwell's transition to regional operations completed, we have achieved the objectives that began with the Governor's Nuclear Waste Task Force in 1999. Accordingly, I write to advise you that I plan to resign as one of South Carolina's Commissioners on the Atlantic Compact Commission, effective June 30, 2011, or of course sooner, if that is your pleasure. I respectfully suggest that our Alternate Commissioner, Dr. John F. Clark, who managed the Atlantic Compact legislation and its subsequent implementation in 2000, be appointed to fill my commissioner position.

Barnwell was slated to close many times before, going back decades. When 2008 neared, national observers assumed South Carolina would play "Charlie Brown" again as "Lucy" pulled the football away at the last second. This time, South Carolina got it right. I am proud that we kept our commitment to the public and to South Carolina's environment. We also kept our promise to our own utilities and successfully transformed the Barnwell facility into a carefully-monitored, low-volume operation that benefits South Carolina.

In concluding his letter, Johnson acknowledges the dedication of the many people who worked diligently toward the goals of the Atlantic Compact and the State of South Carolina—including, among others, John Clark, Bill Newberry, Hank Stallworth, the late Tricia Tangney, and Max Batavia (the compact's Executive Director). Johnson also acknowledged contributions by regional utilities, the site operator, fellow compact commissioners, member states and former Governors Jim Hodges and Mark Sanford.

For additional information, please contact Max Batavia of the Atlantic Compact Commission at (803) 737-1879 or at mbatavia@microbyte.net.

Additional Contentions Admitted re Proposed MOX Facility

A thee-judge Atomic Safety and Licensing Board (ASLB) has concluded that opponents of an operating license application for the proposed Mixed-Oxide Fuel Fabrication Facility in South Carolina have offered acceptable additional arguments that should be considered in an eventual hearing regarding the application. The ASLB is the independent body within the NRC that presides over hearings where the public can

challenge proposed licensing and enforcement actions.

In its 2 to 1 decision, the ASLB accepted for further review the arguments from the Blue Ridge Environmental Defense League, Nuclear Watch South, and the Nuclear Information and Resource Service. The arguments revolve around the adequacy of aspects of the proposed facility's procedures for controlling the plutonium and enriched uranium that the facility would combine to create MOX; the security-related focus of these matters means they cannot be discussed in detail. While the NRC technical staff has found the proposed procedures acceptable, the Board will now subject the facility's procedures and the staff's position to additional scrutiny.

The Board majority rejected objections from the applicant, Shaw Areva MOX Services, and NRC legal staff that the additional arguments were offered too late in the hearing process. The Board's dissenting judge noted that, regardless of the arguments' timing, the Board should take up the issues involved, given their importance. The majority agreed, and all concurred that NRC regulations would require the Board to seek Commission approval if that course of action were necessary.

Shaw Areva MOX Services submitted an operating license application for the facility in 2006 and has updated the application since then. The NRC technical staff issued its Safety Evaluation Report on the proposed facility in December 2010. The ASLB hearing must be concluded and the staff must verify the facility's proper construction before any license could be issued.

Documents related to the license application are available on the NRC web site at http://www.nrc/gov/materials/fuel-cycle-fac/mox/licensing.html. Documents pertaining to the ASLB proceeding are available in the agency's Electronic Hearing Docket at http://ehd1.nrc.gov/EHD/. Additional information about the ASLB can be found at http://www.nrc.gov/about-nrc/organization/aslbpfuncdesc.html.

Central Midwest/State of Illinois

Public Meetings Held re Zion Decommissioning

On February 22, 2011, the U.S. Nuclear Regulatory Commission hosted two public meetings to discuss the agency's actions to ensure the safe decommissioning of the Zion Nuclear Power Station. The two-unit plant—which is located roughly 40 miles north of Chicago in Zion, Illinois—ceased operation in 1997.

ZionSolutions, a subsidiary of EnergySolutions created to manage the decommissioning work at Zion and based in Salt Lake City, Utah, will carry out decommissioning activities at the plant.

The meetings were tailored to provide members of the public with an opportunity to have a dialogue with NRC representatives. During the meetings, NRC staff discussed inspections, independent surveys and other activities to ensure the safety of the local community, workers at the site and the environment. NRC also addressed issues of concern to the public, such as how people can have confidence that spent nuclear fuel at Zion will be stored safely. At the end of the decommissioning process, NRC will make sure that the area is decontaminated to a level that permits release of the property and termination of the NRC license.

Zion Unit 1 operated from 1973 to 1997; Unit 2 operated from 1974 to 1996. After a nuclear plant is permanently shut down, decommissioning has to take place within 60 years of the shut down date.

In 2008, plant owner Exelon Corp. submitted a request to the NRC to transfer the licensed ownership to Zion*Solutions.* NRC reviewed the license transfer request, making sure that the company had proper staffing and expertise to safely implement decommissioning activities and that there would be sufficient funds to fully decommission the plant. NRC approved the license transfer in September 2010.

Northwest Compact/State of Idaho

Final EIS Issued for Proposed Idaho Uranium Enrichment Plant

In mid-February, the U.S. Nuclear Regulatory Commission issued its Final Environmental Impact Statement (FEIS) for the proposed Eagle Rock Enrichment Facility. The report contains NRC staff's findings that environmental impacts from the facility would be generally small. Accordingly, NRC staff concluded that there are no significant environmental impacts that would preclude licensing the facility and recommended issuing the license.

NRC staff published the results of its technical review of the application in a Safety Evaluation Report (SER) issued in September. The report concluded that operation of the facility as proposed would not pose undue risk to worker and public health and safety.

AREVA Enrichment Services (AES) submitted an application to construct and operate the facility on December 30, 2008. The facility would use gas and centrifuge technology to enrich uranium hexafluoride up to 5 percent in the isotope uranium-235. The enriched uranium would be used to manufacture nuclear fuel for commercial nuclear power reactors.

In the FEIS, NRC staff assessed the potential environmental impacts from preconstruction activities, construction, operation and eventual decommissioning of the proposed facility. The staff assessed the impacts on land use, historic and cultural resources, visual and scenic resources, air quality, geology and soils, water resources, ecological resources, noise, transportation, public and occupational health, waste management, socioeconomics, and environmental justice. The staff also considered public comments on the Draft Environmental Impact Statement, which was published in July 2010.

The NRC's Atomic Safety and Licensing Board is conducting an adjudicatory hearing on the staff's safety review of the application. The board expects to conduct a hearing on the environmental review this summer. An agency decision on whether to grant a license can only occur after the hearings are concluded.

The FEIS is available on the NRC web site at http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1945/. The September 2010 SER is available at http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1951/. Additional information about the application and the NRC's review process is available at http://www.nrc.gov/materials/fuel-cycle-fac/arevanc.html.

Northwest Compact/State of Utah

Utah RCB Extends DU Performance Assessment for Energy*Solutions*

The Executive Secretary of the Utah Radiation Control Board has approved an extension request by Energy*Solutions* regarding the due date for submitting the Performance Assessment related to disposal of large quantities of Depleted Uranium (DU). The extension allows the licensee additional time to make adjustments to the modeling program regarding concerns and issues that were brought up during the DU workshops that took place late last year and in February of this year.

The due date as found in Radioactive Material License UT2300249, Amendment 10, License Condition 35.B, has been changed to June 1, 2011.

Utah's DU Performance Assessment Rule

On April 13, 2010, the Utah Radiation Control Board voted to approve a Depleted Uranium Performance Assessment Rule, R313-25-8, "Technical Analysis."

The rule, which includes changes that resulted from comments received during the proposed rule's public comment period, states as follows:

R313-25-8. Technical Analyses.

(1) The specific technical information shall also include the following analyses needed to demonstrate that the performance objectives of R313-25 will be met:
(a) Analyses demonstrating that the general population will be protected from releases of radioactivity shall consider the pathways of air, soil, ground water, surface water, plant uptake, and exhumation by burrowing animals. The analyses shall clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses shall clearly demonstrate a reasonable assurance that the exposures to humans from the release of radioactivity will not exceed the limits set forth in R313-25-19.
(b) Analyses of the protection of inadvertent intruders shall demonstrate a reasonable assurance that the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.
(c) Analysis of the protection of individuals during operations shall include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analysis shall provide reasonable assurance that exposures will be controlled to meet the requirements of R313-15.
(d) Analyses of the long-term stability of the disposal site shall be based upon analyses of active natural processes including erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site. The analyses shall provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.
(2)(a) Any facility that proposes to land dispose of significant quantities of concentrated depleted uranium (more than one metric ton in total accumulation) after [effective date of rule] shall submit for the Executive Secretary's review and approval a performance assessment that demonstrates that the performance standards specified in 10 CFR Part 61 and corresponding provisions of Utah rules will be met for the total quantities of concentrated depleted uranium and other wastes, including wastes already disposed of and the quantities of concentrated depleted uranium the facility now proposes to dispose. Any such performance assessment shall be revised as needed to reflect ongoing guidance

and rulemaking from NRC. For purposes of this performance assessment, the compliance period shall be a minimum of 10,000 years. Additional simulations shall be performed for the period where peak dose occurs and the results shall be analyzed qualitatively.
(b) No facility may dispose of significant quantities of concentrated depleted uranium prior to the approval by the Executive Secretary of the performance assessment required in R.313-25-8(2)(a).
(c) For purposes of this R.313-25-8(2) only, "concentrated depleted uranium" means waste with depleted uranium concentrations greater than 5 percent by weight.

The rule became effective June 1, 2010.

Background

In 2009, the State of Utah issued a proposed rule that would require approval of a site-specific performance assessment (SSPA) prior to the shallow land disposal of additional depleted uranium. As proposed, the rule would not become effective immediately.

Given the time lag, the Executive Secretary proposed a license condition for the Energy*Solutions'* Clive facility that would address the disposal of depleted uranium at the site prior to the Board's consideration and final determination about the rule.

The purpose of the license condition, according to the state, is "to provide some immediate and undisputed protection during this interim period, against possible disposal of depleted uranium that is inconsistent with the results of the SSPA." A second purpose is "to provide additional protection for the entire period before NRC completes its regulatory process."

The license condition is not intended to supplant the rule, which may provide for more restrictive requirements on the disposal of depleted uranium, nor foreclose the possibility of further orders by the Executive Secretary.

A public comment period on the issue was established from November 23, 2009 through December 23, 2009.

In February 2010, the Division of Radiation Control issued a written document providing responses to pubic comments on the issue.

License Amendment 7, which incorporates revision to License Condition 35 regarding the additional requirements for disposal of large quantities of depleted uranium, may be found at http://www.radiationcontrol.utah.gov/EnSolutions/License/licenseamend7.pdf.

Responses to public comments on License Condition 35 may be found at http://www.radiationcontrol.utah.gov/EnSolutions/License/publicparticpation.pdf.

For additional information, please contact Rusty Lundberg, Director of the Utah Division of Radiation Control, at (801) 536-4257 or at rlundberg@utah.gov.

Utah DEQ to Update Administrative Procedures Rule

The Utah Department of Environmental Quality (DEQ) is proposing to update its rule governing administrative procedures. The proposed new rule, R305-6, was published in the Utah Bulletin on March 15, 2011.

The purpose of specifying administrative procedures generally is to ensure that all participants will have information about how administrative proceedings will be conducted, and

to ensure that the proceedings are conducted fairly and efficiently.

Comments are due by May 16, 2011.

The proposed rule may be found on page 53 of the March 15, 2011 Utah Bulletin at: http://www.rules.utah.gov/publicat/bull_pdf/2011/b20110315.pdf.

For additional information, please go to http://www.deq.utah.gov/Issues/docs/Noticeofproposedrulemaking.PDF.

Purpose

DEQ is proposing to update its rule governing administrative procedures, and it is simultaneously proposing to consolidate all of its current administrative rules into one rule. Updating is needed for several reasons, including the following:

- A 2009 amendment to Section 19-1-301 required DEQ to use administrative law judges for most administrative proceedings. Many of the updates are needed to incorporate that statutory change.

- Updates are also needed to make clarifications and improvements in administrative procedures based on the DEQ's accumulated experience with administrative procedures.

Existing Administrative Rules

DEQ expects to propose rulemaking shortly to delete the existing administrative rules: R307-103 (Air Quality); R309-115 (Drinking Water); R313-17 (Radiation Control); R315-12 (Solid & Hazardous Waste); R311-210 (Underground Storage Tanks); R317-9 (Water Quality); to substitute citations to R305-6; and, to make other conforming changes.

Companion rulemaking will be filed soon to repeal the current rules governing administrative proceedings and to change references from those rules to this rule.

Hearing

A hearing on the proposed new rule was held on April 11, 2011 at 4:00 p.m. in the DEQ Board Room (Room 1015) of the Multi-Agency State Office Building, 195 N 1950 W, Salt Lake City.

During the first part of the meeting, DEQ representatives described the proposed rule and took questions. Thereafter, DEQ representatives received verbal comments.

C**omments**

Comments are due by 5:00 p.m. on May 16, 2011. They should be submitted as follows:

- via mail to: Administration, Department of Environmental Quality, 195 North 1950 West, Salt Lake City, UT 84116-3085

- via e-mail or fax to: Laura Lockhart at llockhart@utah.gov or at (801) 366-0292 or to Kimberly Kreykes at kkreykes@utah.gov or at (801) 536-4099

For additional information, please contact Rusty Lundberg, Director of the Utah Division of Radiation Control, at (801) 536-4257 or at rlundberg@utah.gov. You may also contact Laura Lockhart at (801) 366-0283 or at llockhart@utah.gov, as well as Kimberly Kreykes at (801) 536-4042 or at kkreykes@utah.gov.

Utah Solicits Comments re Energy*Solutions* Amendments

The Utah Division of Radiation Control (DRC) recently accepted public comment regarding

(1) an initial decision by the Executive Secretary of the Utah Radiation Control Board (RCB) to amend the Energy*Solutions*, LLC (licensee) low-level radioactive waste disposal license, and

(2) an initial decision by the Co-Executive Secretary of the Utah Water Quality Board to amend the Energy*Solutions*, LLC, Groundwater Quality Discharge Permit.

Written comments on both items were accepted through the end of business on April 28, 2011. A public meeting on both items was held on April 20, 2011 from 5:30 to 7:30 pm.

Energy*Solutions'* Radioactive Material License Amendment

DRC is accepting public comment regarding an initial decision by the Executive Secretary of the RCB to amend the Energy*Solutions* (licensee) low -level radioactive waste disposal license (RML UT2300249). The Statement of Basis and the draft license may be found at the following website: http://www.radiationcontrol.utah.gov/

Written comments were accepted if received by the end of business on April 28, 2011. Written comments may be directed to the Utah Division of Radiation Control, 195 North 1950 West, P.O. Box 144850, Salt Lake City, UT 84114-4850, or by email to radpublic@utah.gov.

A public meeting was held at the Utah Department of Environmental Quality, 195 North 1950 West, Salt Lake City Utah, DEQ board Room, Room 1015 on April 20, 2011 from 5:30 to 7:30 pm.

Energy*Solutions'* Groundwater Quality Discharge Permit Modification

DRC is accepting public comment regarding an initial decision by the Co-Executive Secretary of the Utah Water Quality Board to amend the Energy*Solutions*, LLC, Groundwater Quality Discharge Permit No. UGW370004. The Statement of Basis and the draft Permit may be found at the following website: http:// www.radiationcontrol.utah.gov/

Written comments were accepted if received by the end of business on April 28, 2011. Written comments may be directed to the Utah Division of Radiation Control, 195 North 1950 West, P.O. Box 144850, Salt Lake City, UT 84114-4850, or by email to radpublic@utah.gov.

A public meeting was held at the Utah Department of Environmental Quality, 195 North 1950 West, Salt Lake City Utah, DEQ board Room, Room 1015 on April 20, 2011 from 5:30 to 7:30 pm.

For additional information, please contact Rusty Lundberg, Director of the Utah Division of Radiation Control, at (801) 536-4257 or at rlundberg@utah.gov.

Utah DEQ Hosts Energy*Solutions'* Stakeholder Forum

The Utah Department of Environmental Quality (DEQ) recently announced the formation of an Energy*Solutions* Stakeholder Forum ("the forum"). The purpose of the forum is to share information with key opinion leaders and stakeholder groups related to licensing and other environmental issues at Energy*Solutions*. It is not intended to serve as a substitute for Public Notice and Comment periods, but rather to provide a mechanism for sharing information and perspectives on an ongoing basis.

The first meeting was held on Wednesday, March 16, beginning at 5:30 p.m. The meeting -- which focused on environmental issues -- was held in the DEQ Board Room, 195 North 1950 West in Salt Lake City.

The agenda for the forum was as follows:

- welcome and introductions
- purpose and goals of stakeholder forum
  - why: LEAN process
  - overview of purpose, goals, what to expect
  - related:
    * new website: www.deq.utah.gov/Issues/energysolutions
    * new list serve: www.deq.utah.gov/ListServ/index.htm#esi
  - group discussion and feedback
- presentation on the Studsvik process
- overview of recent compliance action
- status reports and upcoming issues
  - new date for the Performance Assessment submission
  - currently in comment: 2 items with DSHW (1) additional leachate storage tanks; (2) contingency plan revisions. Comment period for both closes in early/mid April
  - recently approved
    * by DSHW: annual surety update, revised groundwater monitoring network, thermal desorption final permitting
    * by DAQ: revision to our air approval order to add dust control equipment to our cement batch plant
  - pending
    * comment period for minor changes to RML and GW permit – revising environmental monitoring plan and removing gross alpha as a groundwater monitoring parameter
- next meeting
  - date
  - suggested topic

Although DEQ sent specific invitations to new forum members, the meetings will be open to the public. DEQ expects the meetings to be concluded in under 2 hours.

For additional information, please contact Rusty Lundberg of the Utah Department of Environmental Quality, Radiation Control Board, at (801) 536-4250 or at rlundberg@utah.gov.

Violations Issued re Unacceptable Waste Shipments to Clive

In late January 2011, the Executive Secretary of the Utah Radiation Control Board (RCB) issued a "Notice of Violation" to waste generators in connection with unacceptable shipments of waste last year to Energy*Solutions'* low-level radioactive waste disposal facility in Clive, Utah. In addition, the facility will be fined for the disposal of waste that violated its Class A license.

Energy*Solutions* notified the Utah Division of Radiation Control (DRC) in December when shipments contained waste above the Class A waste criteria. DRC reviewed the data and

confirmed that 15 shipments with 23 containers exceeded the radioactivity permitted for disposal at the facility.

"The company did report the problem to us and has worked with DRC to resolve these errors," stated Rusty Lundberg, Director of Radiation Control and Executive Secretary of the RCB. "At this time, we intend to propose penalties and negotiate with Energy*Solutions* to do an environmental project that will benefit the citizens of Utah in retribution."

Energy*Solutions* regularly conducts analysis on all waste disposed at its Clive facility with software monitoring and analysis. Through this process, the company discovered the issue and consequently self-reported. The waste has been disposed in Energy*Solutions'* Class A and Mixed Waste Disposal Embankments. Although the disposal poses no threat to human health or environment, state law prohibits Energy*Solutions* from accepting Class B or C wastes.

The Notice of Violations were issued according to state statute and rule that sets the enforcement of civil penalties. The following were cited: Bechtel of Oak Ridge, Tennessee (including a civil penalty of $4,875); CH2M Hill of Richland, Washington (including a civil penalty of $3,250); Materials and Energy Corporation of Oak Ridge, Tennessee (including a civil penalty of $3,250); and, NASA (including a civil penalty of $3,250).

For additional information, please go to http://www.deq.utah.gov/Issues/energysolutions/index.html.

Utah Radiation Control Board Hosts March Meeting

PA Workshop & Stakeholder Forum Held March 16

The Utah Radiation Control Board held a regularly scheduled meeting on Tuesday, March 8, 2011. The meeting—which was open to the public—was held in Conference Room 1015 of the Multi Agency State Office Building at 195 North 1950 West in Salt Lake City, Utah. It was scheduled from 3:00 pm to 5:00 pm.

Shortly thereafter, on March 16, 2011, the Utah Department of Environmental Quality (DEQ) hosted Energy*Solutions* performance assessment stakeholder workshop session number 4 and an Energy*Solutions* stakeholder forum.

Radiation Control Board Meeting Agenda Items

The following items, among others, were on the March meeting agenda:

- approval of minutes of past meeting;
- 5-year review of R313-26, Generator Site Access Permit Requirements for Accessing Utah Radioactive Waste Disposal Facilities;
- status of rulemaking on R313-25-8, technical analysis: proposed changes to incorporate comments received relating to requirements regarding site-specific performance assessments associated with the disposal of low-level radioactive waste;
- settlement stipulation agreement for Harrison R Cooper Systems;
- presentation from Studsvik/Energy*Solutions*: overview of joint venture thermal treatment process;
- status of Energy*Solutions* performance assessment; and,
- public comment period.

The Radiation Control Board—which is appointed by the Utah Governor with the consent of the Utah Senate—guides development of Radiation Control policy and rules in the state.

The Board holds open meetings ten times per year at locations throughout the state. A public comment session is held at the end of each meeting.

A meeting was scheduled for April 12, 2011, but was subsequently cancelled. The next Board meeting has been scheduled for May 10, 2011 from 3:00 pm to 5:00 pm. The meeting will be held in Conference Room 1015 of the Multi Agency State Office Building at 195 North 1950 West in Salt Lake City, Utah. The meeting will be open to the public.

Copies of the Utah Radiation Control Board meeting agendas can be found at http://www.radiationcontrol.utah.gov/Board/minagd/agenda.pdf.

PA Education and Discussion Workshop

On November 9-10, 2010, the Division of Radiation Control of the Department of Environmental Quality in the State of Utah hosted a second performance assessments education and discussion workshop. The two-day meeting, which was intended to involve interested stakeholders and the public in matters related to the disposal of low-level radioactive waste in the state, provided participants with an opportunity to learn and understand the essential components and parameters of a performance assessment with respect to low-level radioactive waste disposal. Both days of the workshop were conducted under the direction of a facilitator. The first day was conducted as an educational session by providing an overview of performance assessments. The second day built on the overview by allowing participants to offer input and feedback regarding the specific components of a performance assessment and related issues and key considerations.

A third performance assessments education and discussion workshop was held on February 1. The workshop focused on issues related to the upcoming submittal of the Depleted Uranium Performance Assessment for Energy*Solutions.* The workshop, which was again conducted under the direction of a facilitator, followed up on various "parking lot" items from the earlier workshops including issues related to long-term modeling, performance objectives, public protection, and quality assurance and transparency.

The fourth performance assessments educaction and discussion workshop was held on March 16. The workshop—which was held in Conference Room 1015 of the Multi Agency State Office Building at 195 North 1950 West in Salt Lake City, Utah—began at 3:00 pm. It was followed by an Energy*Solutions* stakeholder forum. (See related story, this issue.)

For additional information, see LLW Notes, November/December 2010, pp. 8-9, and January/February 2011, pp. 9-11.

For additional information, please contact Rusty Lundberg of the Utah Department of Environmental Quality, Radiation Control Board, at (801) 536-4250 or at rlundberg@utah.gov.

Rocky Mountain Board/State of New Mexico

URENCO USA's Performance Discussed at Public Meeting

On April 12, 2011, officials from the U.S. Nuclear Regulatory Commission met with management of URENCO USA in Eunice, New Mexico to discuss the results of a licensee performance review for the company's National Enrichment Facility. During the course of the meeting, which was open to members of the public, NRC officials provided a brief presentation on the company's performance and answered questions regarding NRC oversight and inspection of the facility.

NRC staff assessed operational performance and construction activities at the National Enrichment Facility from December 2009 through December 2010. Assessments were made in the areas of safety operations, radiological controls, facility support and special topics. The area of safeguards was also assessed, but that area was not discussed publicly due to the sensitive nature of the information. Construction activities were evaluated in the areas of management measures, facility construction and facility support.

The NRC staff review determined that URENCO USA "is being operated safely and construction work is being done in an acceptable manner." Although the agency did not identify any areas needing improvement, NRC plans to continue increased inspection in some areas.

The NRC inspectors found indications of potential weaknesses in the company's criticality safety program. NRC will perform additional inspections in 2011 to ensure adequate corrective actions. A criticality can occur when enriched uranium comes together in sufficient quantity or in a container of a shape that indicates a chain reaction resulting in either a "burst" or a sustained release of radiation.

During the review period, NRC also identified some non-compliance issues related to the quality assurance oversight of some construction activities. While the company has taken corrective actions to address these issues, NRC will continue increased inspection oversight in this area.

A copy of the NRC letter detailing the URENCO USA review is available online in the NRC's Agency-wide Document Access and Management System at www.nrc.gov/reading-rm/adams/web-based.html. The ML number is ML110680220.

Southeast Compact

Nominations Sought for 2012 Hodes Award

The Southeast Compact Commission for Low-Level Radioactive Waste Management is seeking nominations for the 2012 Richard S. Hodes, M.D. Honor Lecture Award—a program that recognizes an individual, company, or organization that contributed in a significant way to improving the technology, policy, or practices of low-level radioactive waste management in the United States. The award recipient will present the innovation being recognized at a lecture during the Waste Management '12 Symposium in Phoenix, Arizona. The award recipient will receive a $5,000 honorarium and all travel expenses will be paid.

Background

Dr. Richard S. Hodes was a distinguished statesman and a lifetime scholar. He was one of the negotiators of the Southeast Compact law, in itself an innovative approach to public policy in waste management. He then served as the chair

of the Southeast Compact Commission for Low-Level Radioactive Waste Management from its inception in 1983 until his death in 2002. Throughout his career, Dr. Hodes developed and supported innovation in medicine, law, public policy, and technology. The Richard S. Hodes, M.D. Honor Lecture Award was established in 2003 to honor the memory of Dr. Hodes and his achievements in the field of low-level radioactive waste management.

Past Recipients

The following individuals and entities are past recipients of the Richard S. Hodes, M.D. Honor Lecture Award:

- W.H. "Bud" Arrowsmith (2004);
- Texas A & M University Student Chapter of Advocates for Responsible Disposal in Texas (2004 *honorable mention*);
- William Dornsife (2005);
- California Radioactive Materials Management Forum (2006);
- Larry McNamara (2007);
- Michael Ryan (2008);
- Susan Jablonski (2009);
- Larry Camper (2010); and,
- Christine Gelles (2011).

The Award

The Richard S. Hodes Honor Lecture Award—established in March, 2003—is awarded to an individual, company, or organization that contributed in a significant way to improving the technology, policy, or practices of low-level radioactive waste management in the United States. The award recipient will be recognized with a special plaque and an invitation to present a lecture about the innovation during the annual international Waste Management Symposium (WM '12). The 2012 symposium is sponsored by the University of Arizona and will be held in Phoenix, Arizona in the spring of 2012. A special time is reserved during the Symposium for the lecture and the award presentation. The Southeast Compact Commission will provide the award recipient a $5,000 honorarium and will pay travel expenses and per diem (in accordance with Commission Travel Policies) for an individual to present the lecture.

Criteria

The Richard S. Hodes Honor Lecture Award recognizes innovation industry-wide. The award is not limited to any specific endeavor—contributions may be from any type of work with radioactive materials (nuclear energy, biomedical, research, etc.), or in any facet of that work, such as planning, production, maintenance, administration, or research. The types of innovations to be considered include, but are not limited to:

- conception and development of new approaches or practices in the prevention, management, and regulation of radioactive waste;
- new technologies or practices in the art and science of waste management; and,
- new educational approaches in the field of waste management.

The criteria for selection include:

1. *Innovation*. Is the improvement unique? Is it a fresh approach to a standard problem? Is it a visionary approach to an anticipated problem?
2. *Safety*. Does the practice enhance radiation protection?
3. *Economic*s. Does the approach produce significant cost savings to government, industry or the public?
4. *Transferability*. Is this new practice applicable in other settings and can it be replicated? Does it increase the body of technical knowledge across the industry?

Eligibility

To be eligible for the award, the individual/group must consent to being nominated and must be

willing to prepare and present a lecture about the innovation being recognized at the Waste Management Symposium. Individuals or organizations can nominate themselves or another individual, company, institution, or organization.

Nominations

To nominate yourself or another individual, company, or organization for this distinguished award, please contact:

Ted Buckner, Associate Director
Southeast Compact Commission
21 Glenwood Avenue, Suite 207
Raleigh, NC 27603
919.821.0500
tedb@secompact.org

or visit the Southeast Compact Commission's website at http://www.secompact.org/.

Nominations must be received by June 30, 2011.

Southeast Compact/State of Tennessee

NFS Performance Discussed at Public Meeting in Erwin

On April 7, 2011, U.S. Nuclear Regulatory Commission officials met with management of Nuclear Fuel Services in Erwin, Tennessee to discuss the results of a licensee performance review for the company's nuclear fuel facility. During the course of the meeting—which was open to members of the public—NRC officials gave a brief presentation on the company's performance and answered questions about NRC oversight and inspection of the facility.

NRC staff assessed performance at NFS from January through December 2010 in the areas of safety operations, radiological controls, facility support and special topics. The area of safeguards was also assessed, but that area was not discussed publicly due to the sensitive nature of the information. The NRC staff review determined that NFS continues to conduct its activities safely and securely, protecting the public, workers and the environment.

Based on the NRC inspections in 2010, the agency found that NFS improved performance but corrective actions to address the underlying causes of some operational issues have not been fully effective and the area of safety operations continues to need improvement. In addition, NRC inspectors found that additional efforts by NFS management is needed to improve oversight of facility operations.

In 2011, NRC will augment its normal inspections at NFS with additional inspections to ensure that actions taken by the company are effective and sustainable. These inspections include an assessment of readiness to restart the uranium hexafluoride process line, follow-up inspections for both a confirmatory action letter and an order issued to the facility, a problem identification and resolution inspection, and a design review inspection.

A copy of the NRC letter detailing the NFS review is available online in the NRC's Agency-wide Document Access and Management System at www.nrc.gov/reading-rm/adams/web-based.html. The ML number is ML110660633.

(Continued from page 1)

In addition, the bill would require that the TLLRWDCC account be held in the general revenue fund. The TCEQ would be required to deposit the portion of the compact waste disposal fee calculated to support the activities of the TLLRWDCC into the account. Money from the account would then only be able to be appropriated to support TLLRWDCC operations.

SB 1504

Status Update

SB 1504 was filed on March 10, 2011. The bill—which was introduced by Texas State Senators Kel Seliger (Republican, 31st District) and Juan "Chuy" Hinojosa (Democrat, 20th District)—was read for the first time on March 22, 2011. It was then referred to the Senate Committee on Natural Resources. A public hearing on the bill was held on April 5, 2011, after which it was reported favorably as substituted on April 11, 2011.

On April 13, 2011, the full Senate considered and passed SB 1504 by a vote of 31 to 0 with five separate floor amendments. On April 14, 2011, the House received SB 1504 for consideration.

To date, no action has been taken on the bill by the House.

Brief Overview

Acceptance of Out-of-Region Waste As amended, among other things, SB 1504 would allow Waste Control Specialists LLC (WCS) to accept approved out-of-region Class A, B and C waste "to the extent the acceptance does not diminish the disposal volume or curie capacity available to party states." All such waste must meet license requirements regarding waste characteristics and waste form.

Waste of international origin would be prohibited from being accepted for disposal at the facility.

Volume and Curie Limits The amended version of SB 1504 limits the disposal of out-of-region waste to a maximum annual limit of 50,000 total cubic feet and 120,000 total curies. The bill provides that the legislature by general law may establish revised limits after consideration of capacity study results. (See subsection titled "Capacity Study" below.)

In addition, the bill would limit the disposal of out-of-region waste to a maximum of 30 percent of the total facility volume and radioactivity as established in the license issued by TCEQ.

Imposition of Surcharges As amended, SB 1504 would require the imposition of a surcharge for the disposal of out-of-region waste. The surcharge would equal 20 percent of the total contracted rate.

The surcharge would be deposited in the low-level radioactive waste fund.

Procedural Requirements The amended version of SB 1504 provides that the TLLRWDCC shall by rule adopt procedures and forms for the approval of the importation of out-of-region waste.

The bill further provides that only the generator of the waste may submit an import application.

Capacity Study SB 1504 would require TCEQ to conduct a study on the available volume and curie capacity of the compact waste disposal facility for both in-region and out-of-region waste. The bill would require TCEQ to consider and make recommendations regarding:

(1) the future volume and curie capacity needs of the party state and non-party state generators and any additional reserved capacity necessary to meet those needs;

(2) the necessity of containerization of the waste; and,

(3) the effects of the projected volume and radioactivity of the waste on the health and safety of the public.

TCEQ would then be required to submit a final report of the results of the study to the standing legislative committees not later than December 1, 2012. Upon completion of the study, TCEQ's Executive Director would be authorized to prohibit WCS from accepting any additional out-of-region waste if the agency determines that the capacity of the facility will be limited, regardless of whether the regular 30 percent capacity limit provided elsewhere in the amended bill has been reached.

The TLLWDCC would be required to use the study to anticipate the future capacity needs of the compact waste disposal facility.

Party State Waste Disposal Fees SB 1504 maintains a current requirement that TCEQ adopt and periodically revise party state compact waste disposal fees according to a schedule that is based on the projected annual volume of waste received, the relative hazard presented by each type of waste, and associated costs.

The amended bill provides that, for the purposes of a contested case involving the adoption of waste disposal fees, "only a party state generator of low-level radioactive waste may be considered a person affected." In addition, the amended bill would require the administrative law judge presiding over any such contested case to issue a proposal for decision on fees proposed by TCEQ not later than the first anniversary of the date the case is referred by the TCEQ.

The amended bill would also allow TCEQ to establish interim party state waste disposal fees to be effective "only for the period beginning on the date the compact waste disposal facility license holder is approved to accept waste at the disposal facility and ending on the effective date of the rules establishing the fees." The bill would prohibit an extension of the interim rates and, in such case, require disposal at the facility to cease until fees are adopted.

The bill maintains a current mandate that party state waste disposal fees must be sufficient to meet specified requirements. (Interested parties are directed to the amended version of SB 1504 for additional information.)

Contracts for Out-of-Region Waste Disposal SB 1504 would allow WCS to contract disposal rates with out-of-region generators in accordance with the facility license *after* the adoption and implementation of party state waste disposal fees. Any such rates—which would be subject to review and approval by TCEQ's Executive Director—must be set both by a price per curie and a price per cubic foot.

SB 1504 provides that fees resulting from the negotiated rates must be greater than:

(1) the party state waste disposal fees as set by TCEQ; and,

(2) the interim party state waste disposal fees as set by TCEQ's Executive Director.

The bill states that contracts adopted under this section must be negotiated in good faith, conform to applicable antitrust statutes and regulations, and be nondiscriminatory. It further establishes that rates set under this section must generate fees sufficient to meet the same fee criteria as for party state compact waste.

Requirements Regarding New Party States As amended, SB 1504 provides that each state that becomes a party to the Texas Compact after January 1, 2011, but before September 1, 2018, shall contribute a total of $30 million to the host state. A state that becomes a party after September 1, 2018, but before September 1, 2023, shall contribute $50 million. SB 1504 further provides that a state that has previously

withdrawn from the compact would be required to pay the previously committed fee of $25 million in addition to the above-stated fees.

Under the bill, half of the total amount due must be paid on the later of September 1, 2011 or the date the state becomes a party to the compact. The remaining amount due must be paid on the later of the date of the opening of the compact waste disposal facility or the date the facility first accepts waste from the state.

Pursuant to SB 1504, payments made under this section may not be refunded, even if a state subsequently withdraws from the compact.

Deposits to the General Revenue Fund As amended, SB 1504 includes the following provision:

"A holder of a license or permit issued by the … [TCEQ] that authorizes the management, other than disposal, of radioactive waste or elemental mercury for other persons shall remit each quarter to the … [TCEQ] for deposit into the general revenue fund an amount equivalent to 20 percent of the license or permit holder's gross receipts received for management of the waste or mercury for any period exceeding one year. This subsection applies only to the management of radioactive waste or elemental mercury at the compact waste disposal facility."

SB 1605

Status Update

The bill was read for the first time on March 23, 2011. The bill—which was introduced by Texas State Senator Kel Seliger (Republican, 31st District)—was then referred to the Senate Committee on Natural Resources. A public hearing on the bill was held on April 5, 2011, after which it was reported favorably as substituted on April 7, 2011.

On April 13, 2011, the full Senate considered and passed SB 1605 by a vote of 30 to 1 with various amendments. On April 14, 2011, the House received SB 1605 for consideration.

To date, no action has been taken on the bill by the House.

Brief Overview

Bylaws Requirement As amended, SB 1605 would prohibit WCS from accepting waste at the compact waste disposal facility unless the TLLRWDCC has adopted bylaws necessary to carry out the terms of the compact.

Host State Commissioners Under SB 1605, host state Commissioners on the TLLRWDCC would serve staggered six-year terms, with the terms of two host state Commissioners expiring on February 1 of each even-numbered year. SB 1605 would further provide that host state Commissioners serve until a successor is appointed and qualified.

Independent Entity As amended, SB 1605 provides that the TLLRWDCC "is an independent entity and not a program, department, or other division of, or administratively attached to," the TCEQ. SB 1605 would prohibit the appropriation of money for the TLLRWDCC as part of an appropriation for the TCEQ.

Biennial Reports Pursuant to SB 1605, the TLLRWDCC would be required to file with the Governor and appropriate legislative committees a written report on or before December 1 of each even-numbered year. The report must include:

(1) a statement of the activities of the TLLRWDCC during the preceding fiscal biennium;

(2) the TLLRWDCC's recommendations for necessary and desirable legislation; and,

(3) an accounting of all funds received and disbursed by the TLLRWDCC during the preceding biennium.

Representation by Attorney General As amended, SB 1605 provides that the Attorney General shall represent the TLLRWDCC in all matters before the state courts and any court of the United States.

Applicability of Sunset Act Under SB 1605, the TLLRWDCC would be subject to review under the Texas Sunset Act as if it were a state agency, but may not be abolished thereby. The bill provides that the TLLRWDCC would be reviewed during the period in which state agencies scheduled to be reviewed or abolished in 2013 and every 12th year thereafter are reviewed. The costs of such reviews would be borne by the TLLRWDCC, which would also be subject to audit by the state.

Expiration of Current Commissioner Terms As amended, the bill provides that the term of office of TLLRWDCC Commissioners serving on the date that SB 1605 becomes effective will expire on February 1, 2012. The Governor would then appoint host state Commissioners with staggered terms, two each expiring on February 1, 2014; February 1, 2016; and, February 1, 2018.

HB 2184

Status Update

HB 2184 was filed on March 3, 2011. The bill—which was introduced by Texas House Member Tryon Lewis (Republican, 81st District)—was read for the first time on March 8, 2011. It was then referred to the House Committee on State Affairs.

Public hearings on the bill were held on March 14, 2011 and on March 30, 2011. The bill was reported favorably as substituted on March 30, 2011.

To date, the bill has not come up for consideration by the full House.

Brief Overview

Acceptance of Out-of-Region Waste As amended, HB 2184 would allow WCS to accept out-of-region Class A, B and C waste "to the extent the acceptance does not diminish the disposal volume or curie capacity available to party states."

The bill would allow WCS to accept for disposal out-of-region waste that is incidentally commingled with in-region waste at a commercial processing facility.

Waste of international origin would be prohibited from being accepted for disposal at the facility.

Capacity Limitations HB 2184, as amended, states that of the total initial licensed capacity of the compact waste disposal facility:

(1) 50 percent of the volume and curie capacity shall be reserved for compact waste generated in the host state; and,

(2) 20 percent of the volume and curie capacity shall be reserved for compact waste generated in Vermont.

Capacity Study HB 2184 would require TCEQ to conduct a study on the available volume and curie capacity of the compact waste disposal facility for in-region waste. The bill would require TCEQ to consider and make recommendations regarding:

(1) the future revised volume and curie capacity needs of the party generators and any additional reserved capacity necessary to meet those needs;

(2) the result of using decay factors in revising curie capacity limits in the license; and,

(3) the necessity of containerization of the waste.

TCEQ would then be required to submit a preliminary report of the results of the study to the standing legislative committees not later than December 1, 2012. TCEQ would be required to submit a final report not later than December 1, 2014. Upon completion of the final report, TCEQ's Executive Director would be authorized to prohibit WCS from accepting any additional out-of-region waste if the agency determines that the capacity of the facility will be limited.

TCEQ may conduct supplemental studies at any time after December 1, 2014 if the agency determines that a study is necessary.

State Fees As amended, HB 2184 would maintain a requirement that each quarter WCS transfer to the state general revenue fund five percent of the gross revenue receipts from waste received at both the compact and federal waste disposal facilities.

The amended HB 2184 would add a requirement, however, that each quarter WCS transfer to the state general revenue fund ten percent of the gross receipts from the disposal of out-of-region Class A, B and C waste at the compact disposal facility.

Maximum Disposal Rates Pursuant to HB 2184, TCEQ would be required to set maximum disposal rates by rule. The bill provides that such maximum disposal rates would not apply to out-of-state generators.

In establishing the maximum disposal rates for in-region generators, TCEQ

(1) shall assume that out-of-region waste will be accepted for disposal at the compact waste disposal facility at the maximum disposal rate, and,

(2) may not consider the historical operating losses incurred by WCS before beginning operations.

HB 2184 specifically provides that such historical operating losses may only be recovered solely through revenues from the disposal of out-of-region waste. The bill further provides that TCEQ shall determine the amount of historical operating losses via parameters established in the proposed bill. (Interested parties are directed to the amended version of HB 2184 for additional information.)

Contracts for Out-of-Region Waste Disposal As amended, HB 2184 provides that, at any time before the adoption of compact waste disposal fees or maximum disposal rates, WCS may contract with a generator for the disposal of waste at contractually-established fees and rates. HB 2184 provides that any such contracts are subject to authorization by the TLLRWDCC.

Under HB 2184, after TCEQ adopts compact waste disposal fees and maximum disposal rates, in approving contracts between WCS and a generator, the TLLRWDCC may consider, subject to reasonable rules of confidentiality, the net revenues recovered by WCS from the disposal of out-of-region waste.

Compact generators located in the states of Texas and Vermont are not required to enter into such contracts with WCS before the adoption of compact waste disposal fees or maximum disposal rates.

Interim Fees and Rates HB 2184 states that TCEQ's Executive Director may set interim disposal fees and interim maximum disposal rates according to agency rules. Such rates would apply to in-region generators.

Requirements Regarding New Party States As amended, HB 2184 provides that each state that becomes a party to the Texas Compact after September 1, 2011, but before September 1, 2015, shall contribute a total of $40 million to the host state. A state that becomes a party after September 1, 2015, but before September 1, 2020, shall contribute $60 million. HB 2184 further provides that a state that has previously

withdrawn from the compact and seeks readmission on or after September 1, 2011 would be required to pay the previously committed fee of $25 million.

Under the bill, half of the total amount due must be paid on the later of September 1, 2011 or the date the state becomes a party to the compact. The remaining amount due must be paid before the date the facility first accepts waste from the state.

Pursuant to HB 2184, payments made under this section may not be refunded, even if a state subsequently withdraws from the compact.

The host county would receive 10 percent of payments made under this section according to the amended HB 2184.

HB 3699

Status Update

HB 3699 was filed on March 11, 2011. The bill—which was introduced by Texas House Member Sylvester Turner (Democrat, 139th District)—was read for the first time on March 23, 2011. It was then referred to the House Committee on Environmental Regulation, where it remains pending.

Brief Overview

As introduced, HB 3699 would prohibit the disposal of waste generated in another state at the compact disposal facility until the TCEQ has completed the following studies:

(1) a comparative analysis of anticipated costs, volumes and radioactivity resulting from the disposal of regional waste to determine whether or not the disposal facility will have any excess capacity under each of the following scenarios: (a) if waste minimization techniques are adopted by waste generators, waste processors, and WCS; and, (b) if during nuclear plant decommissioning radioactive materials are not separated from one another based upon classification or from other non-radioactive materials prior to disposal;

(2) an analysis of potential cleanup costs if the facility's liner is breached and radioactive waste migrates into one or more neighboring fresh water formations after the termination of the license, and of the liability born by the state under such scenarios;

(3) an analysis of anticipated transportation routes through the state that would be used to bring imported waste to the disposal facility, the likelihood of accidents and/or spills along those routes, the adequacy of emergency preparedness to respond to accidents and/or spills along those routes, and the resulting costs that would be associated with healthcare, cleanup, and compensating property owners for contaminated property; and,

(4) an analysis of the adequacy of all related surety bonds against post-closure costs, including funds for unplanned events, to ensure that these funds are adequately segregated, the instruments are highly unlikely to result in a financial reversal, and that the amounts available will cover the state's liabilities.

As drafted, the bill would prohibit WCS from accepting non-regional waste at the facility if acceptance may diminish the disposal volume available to party states. It also would prohibit WCS from accepting waste of international origin for disposal at the compact waste disposal facility.

In addition, the draft legislation would allow WCS to accept nonparty compact waste for disposal at the compact waste disposal facility only as necessary to address unplanned or extraordinary events occurring in the generating state, as defined by rule by the TLLRWDCC. In such case, the bill would limit the volume of nonparty compact waste that WCS may accept to 10 percent of the total volume of waste projected to be disposed by Texas at the facility.

Background

License Status On January 14, 2009, by a vote of 2 to 0, TCEQ Commissioners denied hearing requests and approved an order on WCS' Radioactive Material License Application No. R04100. (See *LLW Notes,* January/February 2009, pp. 1, 9-11.) Following the completion of condemnation proceedings and the acquisition of underlying mineral rights, TCEQ's Executive Director signed the final license on September 10, 2009. (See *LLW Notes,* September/October 2009, pp. 1, 12-13.)

The license allows WCS to operate two separate facilities for the disposal of Class A, B and C low-level radioactive waste—one being for the Texas Low-Level Radioactive Waste Disposal Compact, which is comprised of the States of Texas and Vermont, and the other being for federal waste as defined under the Low-Level Radioactive Waste Policy Act of 1980 and its 1985 amendments.

Import/Export Rules On January 4, 2011, the TLLRWDCC approved revised Preliminary Rules on the Exportation and Importation of Waste by a vote of five to two. (See *LLW Notes,* January/February 2010, pp. 1, 16.) Various amendments to the rules were accepted prior to passage, including those offered by the Vermont Commissioners that clarified issues regarding the reserving of disposal capacity at the regional commercial facility for generators from the State of Vermont.

The vote followed a series of legal maneuvers by Public Citizen and the Texas Civil Rights Project that attempted to block the Commission from proceeding to act on the proposed rules. The groups initially succeeded at getting a state district court judge to enjoin the Commission from adopting, approving, or otherwise implementing the proposed rules. However, a federal district judge subsequently dismissed the case and dissolved the temporary restraining order ("TRO") after determining that neither the state nor federal court had jurisdiction to prevent the Commission from acting on the proposed rules.

Construction Authorization On January 7, 2011, TCEQ Executive Director Mark Vickery approved the commencement of construction of the planned WCS low-level radioactive waste disposal facility "subject to all applicable license conditions, rules and statutes." (See *LLW Notes,* January/February 2010, pp. 19-21.) Earlier the same day, TCEQ and WCS executed a "Lease and Indemnification Agreement Concerning Low-Level Radioactive Waste Disposal in Andrews County, Texas." The document sets forth provisions relating to conveyance of the Compact Waste Disposal Facility to the State of Texas, including indemnification for any liability imposed on the state.

WCS is currently authorized for the processing, storage and disposal of a broad range of hazardous, toxic, and certain types of radioactive waste. WCS is a subsidiary of Valhi, Inc.

For additional information on WCS license application, please go to the TCEQ web page at http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html or contact the Radioactive Materials Division at (512) 239-6466.

A copy of the TLLRWDCC's import/export rules and other related information may be found on the Commission's web site at http://www.tllrwdcc.org.

For additional information, please contact Susan Jablonski—Director of the Radioactive Materials Division at TCEQ—at (512) 239-6466 or at sjablons@tceq.state.tx.us. You may also contact Rodney Baltzer—President of WCS—at (972) 450-4235 or at rbaltzer@valhi.net. Or, you may contact Michael Ford, Chair of the TLLRWDCC, at (512) 820-2930 or at michael.ford@tllrwdcc.org.

TCEQ Proceeds to Develop Recommended Disposal Rate Schedule

On April 12, 2011, the Texas Commission on Environmental Quality (TCEQ) sent a letter to Waste Control Specialists LLC (WCS) confirming receipt of the company's supplemental responses on and corrections to its pending rate setting application for the planned commercial low-level radioactive waste disposal facility in Andrews County, Texas.

According to the letter, TCEQ is "moving forward with the process to develop a recommended disposal rate schedule based on a documented and supportable rate base." The agency, which states that it is committed to completing the process and having a rate schedule in place prior to the initial receipt of waste, plans to notify WCS upon completion of the review and establishment of a recommended disposal rate schedule. Thereafter, a meeting will be set up for the parties to discuss the recommendation.

TCEQ's April 12 Letter

In the letter, TCEQ acknowledges receipt of WCS' supplemental responses dated January 28, 2011 and corrections to the application on February 22, 2011. "In accordance with the statutory criteria for Texas Compact waste disposal fees, the information received to date on proposed waste disposal rates, and in consideration of the radioactive, physical, and chemical properties of waste types, and relative hazard," writes Susan Jablonski, Director of TCEQ's Radioactive Materials Division, "Executive Director staff are moving forward with the process to develop a recommended disposal rate schedule based on a documented and supportable rate base."

Jablonski then summarizes where the agency is in the rate setting process as follows:

> *After an extensive stakeholder process and soon after Subchapter N rules were adopted, TCEQ worked with outside consultants to assist in compiling and designing a series of spreadsheets into the compact disposal rate application package (Package). On November 16, 2009, TCEQ released the rate application package to WCS to be completed, and made it available to the public for viewing on TCEQ's web site.*
>
> *On June 1, 2010, WCS submitted a disposal rate application based on the Package for TCEQ review and consideration with the electronic spreadsheets. WCS submitted a supplement to address missing items on July 12, 2010. The TCEQ continued its review of the amended Package and issued a detailed Request for Information (RFI) on September 1, 2010. The RFI sought additional documentation regarding required elements of the Texas Compact disposal rate base.*
>
> *Over the past year, there have been numerous discussions between TCEQ and WCS on the WCS application and the disposal rate process. Two focused meetings were held between TCEQ staff and WCS representatives on September 22, 2010, and again on December 21, 2010, to discuss the application and its supporting information for the proposed rate base contained in the WCS application. The agency received public comments on the rate setting process for a 75-day period that ended on November 15, 2010 and additional comments at a public meeting on March 10, 2011. In conjunction with the application review process, TCEQ has facilitated public*

participation and has reviewed comments received from the public on the rate application review process. In addition, TCEQ received comments regarding specific elements of the WCS' rate application package from the public and waste generators. WCS provided a response to the RFI and the Clarification Letter on October 15, 2010 and, as noted above, recently submitted a supplemental response on January 28, 2011, and corrections on February 22, 2011.

The letter concludes by affirming TCEQ's commitment to complete the disposal rate-setting process so that a rate schedule will be in place prior to the initial receipt of low-level radioactive waste at the Texas Compact waste disposal facility. "Once we have completed our review and established a recommended disposal rate schedule," states Jablonski, "we will notify you and set up a meeting to discuss the recommendation."

Background

On June 1, 2010, WCS filed an application with TCEQ to establish the maximum disposal rates for commercial low-level radioactive waste disposal at its planned facility in Andrews County, Texas. (See *LLW Notes*, May/June 2010, pp. 19-20.)

The filing included two alternative proposed rate schedules: one reflecting unlimited disposal for generators in the Texas Compact states of Texas and Vermont, and a second based on unlimited disposal by Texas Compact generators and limited disposal by generators from outside of the Texas Compact region.

TCEQ is charged with establishing the maximum disposal rates that may be collected for the disposal of compact waste under Chapter 336, Subchapter N of the agency's rules. Under TCEQ rules, disposal rates may be based on the cost of operating the disposal facility and a reasonable rate of return—including allowable expenses, the funding of local public projects, the provisions of a revenue requirement comprised of a return of and on its investments, and the payment of other required fees and expenses. Estimated volumes of the various types of low-level waste expected to be disposed at the facility are then used to determine the maximum disposal rates for each type of waste.

The rate setting application filed by WCS also provides information for consideration by the TCEQ in the determination of an appropriate inflation adjustment, volume adjustment, extraordinary volume adjustment, and relative hazard.

By letter dated January 28, 2011, WCS submitted a supplemental response to TCEQ's September 1, 2010 Request for Information (RFI) regarding their proposed disposal rate application. (See *LLW Notes*, January/February 2011, pp. 21-23.) In addition, on February 22, 2011, TCEQ received corrections from WCS to their October 15, 2010 submission on the pending disposal rate application.

On March 10, 2011, TCEQ held a public meeting to take comment and provide an update on the agency's review of the pending rate setting application.

The meeting—which was held at TCEQ's Main Campus in Building E, Room 201S, in Austin, Texas—began at 1:00 pm. TCEQ's meeting announcement stated in part as follows: "As a reminder, this public meeting is not occurring as part of the notice and opportunity for contested case hearing referenced in TCEQ rules at Title 30, Texas Administrative Code (TAC) §336.1309. The official notice for comment and opportunity for a contested case hearing will occur at the time the TCEQ Executive Director completes his review of the WCS proposed rate application and publishes a recommended disposal rate schedule."

For information on WCS license application, please see the "Background" section of the story titled, "Status Update re Waste Related Bills Pending in Texas," in this issue.

For additional information on WCS license application, please go to the TCEQ web page at http://www.tceq.state.tx.us/permitting/radmat/licensing/wcs_license_app.html *or contact the Radioactive Materials Division at (512) 239-6466.*

For additional information on the rate setting application and associated review process, please contact TCEQ Project Manager Sage Chandrasoma at (512) 239-6069 or at schandra@tceq.state.tx.us.

Texas DSHS Drafts Revisions to Rules re Regulation of Rad Material

In mid-April 2011, the Texas Department of State Health Services (DSHS) released for comment draft revisions to sections of their rules regarding the regulation of radiation and radioactive material.

Proposed Revisions

The following is a brief synopsis of the proposed Texas Administrative Code (TAC) rule revisions:

Title 25 TAC §289.202 (Standards for Protection Against Radioactive Materials):

- corrects rule reference citations;
- corrects the maximum permissible limits regarding the removable external radioactive contamination wipe limits;
- adds language to clarify that a unique identification of the survey instrument be included in records showing the results of surveys and calibrations;
- adds language to allow a reporting notification exception for a patient that has been administered radiation for the purposes of medical diagnosis or therapy;
- adds that a report of leaking or contaminated sealed sources shall include the date of the test, model and serial number, if assigned, of the leaking source, the radionuclide and its estimated activity, to maintain rules that are compatible with US Nuclear Regulatory Commission (NRC) rules;
- adds tritium to the table of acceptable surface contamination limits; and,
- changes the name of the "BRC Form 202-2 and 202-3" to "RC Form 202-2 and 202-3" to reflect the current Radiation Control Program name.

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951988

Title 25 TAC §289.203 (Notices, Instructions, and Reports to Workers; Inspections):

- adds an additional worker's dose reporting criteria to maintain rules that are compatible with the NRC; and,
- the Notice to Employees Form (RC Form 203-1) is revised to delete the department's physical address to be consistent with department memo policy and to incorporate the

worker's dose reporting criteria that was added to §289.203(d)(2).

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951989.

Title 25 TAC §289.252 (Licensing of Radioactive Material):

- adds language related to financial assurance for decommissioning to maintain rules that are compatible with the NRC; and,
- adds language to clarify that persons who perform installation of devices containing sealed source(s) in medical imaging equipment and perform source exchanges at client locations shall apply for a specific license.

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951990

Title 25 TAC §289.253 (Radiation Safety Requirements for Well Logging Service Operations and Tracer Studies):

- corrects minor grammatical, typographical, and unit of measure errors

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951991.

Title 25 TAC §289.255 (Radiation Safety Requirements and Licensing and Registration Procedures for Industrial Radiography):

- revises language regarding requirements for qualifications of the radiographer trainer to reflect that licensees and registrants are no longer required to add qualified radiographer trainers to their specific license or certificate of registration;
- adds language to clarify that each licensee or registrant shall make the initial notification report to the agency by telephone within 24 hours of when an event specified in §289.255(o)(2)(A)-(F) has occurred in addition to submitting a written report to the agency within 30 days;
- revises existing language to clarify that only 1 individual monitoring device may be worn as long as the device meets the applicable requirements of §289.202(p)(3) or §289.231(s)(3);
- adds language to differentiate that film badges shall be replaced at periods not to exceed one month and that other personnel dosimeters processed and evaluated by an accredited NVLAP processor shall be replaced at periods not to exceed three months to maintain rules compatible to the NRC;
- adds language to require that an alarming ratemeter have an audible alarm sufficient to be heard by the individual wearing the device in a work environment or have other visual or physical notification of alarming conditions; and,
- changes the number of days that any licensee conducting radiographic operations or storing radioactive material at any location not listed on the license to a period in excess of 180 days instead of 90 days and shall notify the agency prior to

exceeding the 180 days instead of 90 days.

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951992.

Title 25 TAC §289.256 (Medical and Veterinary Use of Radioactive Material):

- adds language to clarify that "covered entity" as defined in HIPAA rule, may be subject to privacy standards governing how information that identifies a patient can be used and disclosed and that failure to follow HIPAA requirements may result in the department making a referral of a potential violation to the US Department of Health and Human Services;
- adds language to require that a record be made to document a Radiation Safety Committee meeting to include the date, names of individuals in attendance, minutes of the meeting, and any actions taken;
- regarding several of the training requirement subsections, changes were made to maintain rules that are compatible with the NRC throughout the section;
- regarding determination of dosages of radioactive material for medical use, changes were made to maintain rules that are compatible with the NRC;
- adds language to require that a physical inventory be conducted at intervals not to exceed 6 months to account for all calibration and reference sources and that inventory records be made and maintained for inspection by the agency;
- adds language requiring the licensee to document that the service provider who is performing installation and source exchange of devices containing sealed source(s) of radioactive material in medical imaging equipment, has a specific license issued by the agency and that a record of the documentation be maintained for inspection by the agency;
- updates the record keeping table to reflect changes made to the section; and,
- corrects minor grammatical and typographical errors throughout the section.

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951993.

Title 25 TAC §289.257 (Packaging and Transportation of Radioactive Material):

- references to 25 TAC §289.254 and §289.260 are deleted because regulatory authority for licensing and inspection of low-level waste processing and uranium recovery and disposal was transferred from the department to the Texas Commission on Environmental Quality (TCEQ) as a result of Senate Bill 1604, 80th Legislative Session, 2007;
- adds a requirement that each licensee who transports radioactive material outside the site of usage as specified in the agency license, transports on public highways, or

delivers radioactive material to a carrier for transport shall comply with the requirements of Title 49, CFR, §387.7 and §387.9 regarding financial responsibility;

- adds language to require that transporters of low-level radioactive waste to a Texas low-level radioactive waste disposal site shall submit proof of financial responsibility required by Title 49, CFR, §387.7 and §387.9, to the agency's Radiation Safety Licensing Branch;
- language is added to reflect that the department shall review and determine alternate routes for the transportation and routing of radioactive material in accordance with Title 49, CFR, §397.103;
- current §289.257(s) regarding inspections, is deleted because this requirement was removed from the Texas Radiation Control Act, Chapter 401, and therefore the agency is no longer required to perform inspections of each shipment of low-level radioactive waste to a licensed land disposal facility in Texas;
- language was added to reflect that the department shall collect the fees assessed for each shipper for shipments of low-level radioactive waste originating in Texas or originating out-of-state being shipped to a licensed Texas low-level radioactive waste disposal facility, as required by Health and Safety Code, §401.052(d); and,
- adds a definition of "shipper" that is applicable only to new renumbered §289.257(dd).

Text and figures are available at http://www.dshs.state.tx.us/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8589951994.

Submitting Comments

Questions on the draft rule revisions can be addressed to Monica Perez, Radiation Group Rule Development Program, at (512) 834-6770, extension 2235, or via e-mail to Monica.Perez@dshs.state.tx.us.

Oral comments on the proposed changes may be expressed at a public meeting scheduled for May 3, 2011, at 9:00 am, in Room S-125 of DSHS' Exchange Building, located at 8407 Wall Street, Austin, TX 78754.

Written comments on the proposed revisions may be submitted to Barbara Taylor, Manager, Radiation Policy, Standards, and Quality Assurance via e-mail at barbaraj.taylor@dshs.state.tx.us.

The deadline for submitting comments is May 16, 2011.

International/Japan

United States Responds to Recent Japanese Event

On March 11, 2011, an estimated 8.9 magnitude earthquake and tsunami off the eastern Japanese coast caused issues at several nuclear power plants. In particular, significant cooling problems occurred at several of the Fukushima Daiichi boiling water reactors that resulted in a level seven crisis alert.

Since the events in Japan, U.S. federal agencies have been actively monitoring radioactive releases and predicting their path. In addition, the U.S. Nuclear Regulatory Commission began monitoring on a 24-hour-a-day basis the Japanese reactor events via its Headquarters Operations Center in Rockville, Maryland. The agency issued several press release stating in part that the United States is"not expected to experience any harmful levels of radioactivity" from the releases from the Japanese reactor event.

NRC has also been monitoring conditions at various U.S. nuclear power plants, spent fuel storage installations, and nuclear materials sites. Personnel at all locations have informed the NRC that conditions remain safe.

For background information on generic operations at a boiling-water reactor, including an animated graphic, please visit the NRC's web site at www.nrc.gov.

Sending of Experts to Assist Japanese Government

Shortly after the crisis began, acting as part of a U.S. Agency for International Development (US AID) assistance team, NRC sent ten experts to Tokyo to provide assistance as requested by the Japanese government. USAID is the federal government agency with primary responsibility for providing assistance to countries in the aftermath of a disaster.

The team included reactor experts, international affairs professional staffers, and a senior manager from one of the NRC's four operating regions. The team members came from the NRC's headquarters in Rockville, Md., and from offices in King of Prussia, Pa., and Atlanta.

The team was instructed to: conduct all activities needed to understand the status of efforts to safely shut down the Japanese reactors; better understand the potential impact on people and the environment of any radioactivity releases; if asked, provide technical advice and support through the U.S. ambassador for the Japanese government's decision making process; and draw on NRC-headquarters expertise for any other additional technical requirements. The team will be in communication with the Japanese regulator, the U.S. Embassy, NRC headquarters, and other government stakeholders as appropriate.

Briefings on Response by U.S. Agencies

On March 14, 2011, NRC Chairman Gregory B. Jaczko and Deputy Energy Secretary Dan Poneman briefed reporters at the White House on the U.S. response to events in Japan.

On March 21, 2011, the NRC was briefed by its staff on the agency's response to the ongoing nuclear event in Japan during a public meeting beginning at 9 a.m. at NRC Headquarters.

The Commission meeting was open to public observation and was web cast at: http://www.nrc.gov/public-involve/public-meetings/webcast-live.html.

Posting of Updated Seismic Questions and Answers

NRC has posted a series of updated seismic and tsunami questions and answers on its web site.

The posted Questions and Answers provides basic information on earthquakes and tsunamis, details on U.S. nuclear power plant seismic design and an explanation of the agency's recent study on earthquake risk.

The document is available at http://www.nrc.gov/japan/faqs-related-to-japan.pdf. Additional NRC information related to the March 11 earthquake and tsunami is available at http://www.nrc.gov/japan/japan-info.html.

Informing of U.S. Nuclear Power Plants on Japan Earthquake's Effects

NRC has issued an Information Notice to all currently operating U.S. nuclear power plants, describing the effects of the March 11 earthquake and tsunami on Japanese nuclear power plants.

The notice provides a brief overview of how the earthquake and tsunami are understood to have disabled several key cooling systems at the Fukushima Daiichi nuclear power station, and also hampered efforts to return those systems to service. The notice is based on the NRC's current understanding of the damage to the reactors and associated spent fuel pools as of Friday, March 18.

The notice reflects the current belief that the combined effects of the March 11 earthquake and tsunami exceeded the Fukushima Daiichi plant's design limits. The notice also recounts the NRC's efforts, post-9/11, to enhance U.S. plants' abilities to cope with severe events, such as the loss of large areas of a site, including safety systems and power supplies.

The NRC expects U.S. nuclear power plants will review the entire notice to determine how it applies to their facilities and consider actions, as appropriate.

Disseminating Information to the Public

NRC will not provide information on the status of developments at Japan's nuclear reactors as this is an ongoing crisis for which the Japanese have primary responsibility. Persons interested in additional information are encouraged to check the NRC web site or blog for the latest information on NRC actions.

Additional sources of information are as follows:

- USAID: www.usaid.gov
- U.S. Department of State: www.state.gov
- Federal Emergency Management Agency: www.fema.gov
- White House: www.whitehouse.gov
- Nuclear Energy Institute: www.nei.org
- International Atomic Energy Agency: www.iaea.org/press

NRC Task Force and Charter to Review Response to Japan Events

On April 1, 2011, the U.S. Nuclear Regulatory Commission named six senior managers and staff to a task force for examining the agency's regulatory requirements, programs, processes, and implementation in light of information from the impact of the March 11 earthquake and tsunami on the Fukushima Daiichi site in Japan.

According to the charter, the task force will conduct a near-term review and identify topics for assessment for a longer-term review. Initially, the task force will identify potential near-term actions that affect U.S. power reactors, including their spent fuel pools. Areas to be reviewed include station blackout (loss of all A/C power for

reactor), external events that could lead to a prolonged loss of cooling, plant capabilities for preventing or dealing with such circumstances, and emergency preparedness. The task force will draw from ongoing NRC inspections to verify availability of plant equipment, procedures, and other resources currently required for dealing with such events. The task force will also gather information from domestic and international sources while remaining independent of any industry initiatives.

The task force expects to develop recommendations for Commission consideration on whether it should require immediate enhancements at U.S. reactors and any changes to NRC regulations, inspection procedures, and licensing processes.

The task force will brief the Commission on the status of the review during public meetings on May 12 and June 16. Recommendations will be reported in a July 19 Commission meeting, which will also be open to the public. In addition, the report will be made available to the public.

The task force charter is available through the NRC's ADAMS electronic document database by entering ML 11089A045 under the "Simple Search" tab at http://wba.nrc.gov:8080/ves/.

NRC Releases Prepared Remarks from Public Meeting re Response to Recent Japanese Event

The U.S. Nuclear Regulatory Commission released the following prepared remarks from a March 21, 2011 briefing on the agency's response to the ongoing nuclear event in Japan during a public meeting at NRC headquarters:

Good morning. The Commission meets today to discuss the tragic events in Japan and consider possible actions we may take to verify the safety of the nuclear facilities that we regulate in the United States. This meeting will—without a doubt—be one of the most heavily watched meetings in the history of this agency.
People across the country and around the world who have been touched by the magnitude and scale of this disaster are closely following the events in Japan, and the repercussions in this country and in many other countries. I would first like to offer my condolences to all those who have been affected by the earthquake and tsunami in Japan. Our hearts go out to all who have been dealing with the aftermath of these natural disasters, and we are mindful of the long and difficult road they will face in recovering. We know that the people of Japan are resilient and strong, and we have every confidence that they will come through this difficult time and move forward, with resolve, to rebuild their vibrant country.

I believe I speak for all Americans when I say that we stand together with the people of Japan at this most difficult and challenging time. The NRC is a relatively small agency, with approximately 4000 staff, but we play a critical role in protecting the American people and the environment. We have inspectors who work full-time at every nuclear plant in the country, and we are proud to have world-class scientists, engineers and professionals representing nearly every discipline.

Since Friday, March 11, when the earthquake and tsunami struck, the NRC's headquarters Operations Center has been operating on a 24-hour basis to monitor and analyze events at nuclear power plants in Japan. At the request of the Japanese government, and through the United States Agency for International Development (USAID), the NRC sent a team of its technical experts to provide on-the-ground support, and we have been in continual contact with them. And, within the United States, the NRC has been

working closely with other Federal agencies as part of our government's response to the situation.

We have a responsibility to the American people to undertake a systematic and methodical review of the safety of our own domestic nuclear facilities, in light of the natural disaster and the resulting nuclear emergency in Japan. Beginning to examine all available information is an essential part of our effort to analyze the event and understand its impact on Japan and implications for the United States. Our focus is always on keeping plants and radioactive materials in this country safe and secure.

As this immediate crisis in Japan comes to an end, we will look at any information we can gain from the event and see if there are changes we need to make, to further protect the public. Together with my colleagues on the Commission, we will review the current status and identify the steps we will take to conduct that review. In the meantime, we will continue to oversee and monitor plants to ensure that U. S. reactors remain safe.

On behalf of the Commission, I want to thank all of our staff for maintaining their focus on our essential safety and security mission throughout these difficult days. I want to acknowledge their tireless efforts and their critical contributions to the U.S. response to assist Japan. In spite of the evolving situation, the long hours, and the intensity of efforts over the past week, staff has approached their responsibilities with dedication, determination and professionalism, and I am incredibly proud of their efforts.

The American people also can be proud of the commitment and dedication within the Federal workforce, which is exemplified by our staff every day. Before we begin our meeting with Mr. Borchardt's presentation, would any of my fellow Commissioners like to make opening comments?

International Atomic Energy Agency (IAEA)

IAEA's Integrated Regulatory Review on NRC Reactor Program

A team of experts organized by the International Atomic Energy Agency (IAEA) has issued a final report evaluating the U.S. Nuclear Regulatory Commission's operating reactor program. The IAEA Integrated Regulatory Review Service (IRRS) team assessed the U.S. regulatory infrastructure against international safety standards and good practices. Results indicate that the NRC has a well-established national policy and strategy for nuclear safety. The report also has recommendations and suggestions for improvement that NRC will review and will then determine what actions the agency should take. Within approximately 24 months, the IAEA will send a follow-up IRRS team to review the NRC's actions.

"The IRRS report confirms our strong approach to ensuring the safety of nuclear power plants in the United States," said NRC Chairman Gregory Jaczko. "This report is the culmination of several years of work by our staff and the IRRS team who conducted the evaluation. The team's positive findings about our safety program are gratifying and their suggestions for additional improvements are informative and will be carefully considered. I am proud of the NRC staff's support of this important IRRS mission and their ongoing commitment to making us the strongest and most effective regulator possible."

The review process began in 2007 when the NRC requested this regulatory peer review to demonstrate its strong commitment to nuclear safety, continuous improvement, critical self-assessment and information-sharing with the

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Advisory Committee on Medical Uses of Isotopes (ACMUI)

ACMUI Holds April Meeting

The U.S. Nuclear Regulatory Commission's Advisory Committee on Medical Uses of Isotopes (ACMUI) held a meeting on April 11-12, 2011 to discuss, among other items, written directives and medical event reporting for permanent implant brachytherapy, as well as dose limits to members of the public from patients who have been administered radioiodine. The committee also discussed extending grandfathering to certain certified individuals regarding training and experience requirements, a subcommittee report on medical-related events, and a variety of other topics related to 10 CFR Part 35 rulemaking.

The ACMUI advises the NRC on policy and technical issues related to the regulation of medical uses of certain radioactive materials.

Detailed agendas for ACMUI meetings can be found at http://www.nrc.gov/reading-rm/doc-collections/acmui/agenda/. A summary of the meeting will be available about June 26 on the ACMUI web site at http://www/nrc.gov/reading-rm/doc-collections/acmui/meeting-summaries.

Advisory Committee on Reactor Safeguards (ACRS)

ACRS Holds March and April Meetings

The U.S. Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards (ACRS) held public meetings on March 10-12, 2011 and then again on April 7-9, 2011 at the agency's headquarters in Rockville, Maryland.

March 2011 Meeting

During the course of the March meeting, ACRS staff discussed several issues of current interest including:

- enhancing the safety focus of small modular reactor reviews;
- the Point Beach nuclear power plant units 1 and 2 extended power uprate application;
- the status of the NRC Groundwater Protection Task Force efforts; and,
- improvements to the Generic Issues Program.

April 2011 Meeting

During the course of the April meeting, ACRS staff discussed several issues of current interest including:

- the Safety Evaluation Report (SER) for Calvert Cliffs Unit 3 combined operating license application;
- emergency planning for small modular reactors;
- the draft final regulatory guide 1.152 on "Criteria for Use of Computers in Safety Systems of Nuclear Power Plants," and cyber security related activities; and,
- human factor considerations in emerging technology for nuclear power plants.

Background

The ACRS advises the Commission, independently from the NRC staff, on safety issues related to the licensing and operation of nuclear power plants and in areas of health physics and radiation protection. Portions of ACRS meetings may be closed to discuss proprietary information, as well as organizational and personnel matters.

Complete agendas for ACRS meetings are available on the NRC web site at http://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/2011/.

U.S. Department of Energy and U.S. Nuclear Regulatory Commission

NRC and DOE Host Workshop re Revising LLW Standards

Web Link Updates Developments re 10 CFR Part 61 Activities

On March 4, 2011, the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission conducted a joint workshop immediately following the Annual Waste Management Conference in Phoenix, AZ, to discuss potential changes to the agencies' low-level radioactive waste (LLRW) disposal standards.

DOE is currently undertaking revisions to its Radioactive Waste Management Order 435.1. NRC staff is preparing a Commission paper that identifies approaches for risk-informed, performance-based comprehensive revisions to 10 CFR Part 61. The workshop was intended to gather information from a broad spectrum of stakeholders concerning the agencies' proposed options for a comprehensive revision to NRC's and DOE's waste regulations and to discuss possible options.

Anyone with an interest in LLRW disposal—generators, processors, disposal facility operators, states, low-level radioactive waste compacts, advocacy groups, and members of the pubic—was invited and encouraged to attend the workshop. Although this workshop was not part of the Waste Management 2011 Conference, it was held the day after that conference ended and in the same area to facilitate attendance.

The workshop was provided free of charge to all interested attendees—i.e., there was no fee to attend. Pre-registration was not required.

Workshop Structure

The joint public workshop was organized in two sessions (one for DOE and one for NRC), followed by a joint ''Panel Discussion'' Session.

Session I addressed DOE Order 435.1. It included an opportunity for stakeholder feedback and comments.

Session II addressed the NRC staff's proposed options for any potential rulemaking actions with respect to revision of 10 CFR Part 61.

Following Session II, there was a joint DOE/NRC Panel Discussion to explain the agencies' respective positions, future plans, and specific views regarding the low-level radioactive waste management framework. The panel also addressed public and stakeholder suggestions and comments.

Questions Addressed

NRC staff sought stakeholder input to the following three questions that were discussed at the public workshop:

(1) Should the staff revise the existing 10 CFR Part 61?
(2) What recommendations do you have for specific changes to the current rule?
(3) What are your suggestions for possible new approaches to commercial LLW management?

NRC plans to consider stakeholder views in the development of a revised draft of Part 61. The staff expects to issue a Commission Paper summarizing stakeholder views along with a recommendation for any future Part 61 rulemaking in calendar year 2012.

Options Being Considered by NRC

As noted in SECY 10-0165, issued on December 27, 2010, NRC staff has identified the following options to initiate activities related to a risk-

informed, performance-based (RI/PB) comprehensive revision to 10 CFR Part 61 ("Licensing Requirements for Land Disposal of Radioactive Waste"):

(1) risk-inform the current Part 61 waste classification framework,
(2) comprehensive revision to Part 61,
(3) site-specific waste acceptance criteria,
(4) international alignment, and
(5) supersede direction given in Staff Requirements Memorandum (SRM)–08–0147.

This SECY paper is available on the NRC web site at http://www.nrc.gov/reading-rm/doc-collections/commission/secys/2010/.

Establishment of Web Link to Track Updates

NRC has established a web link to keep interested stakeholders advised of developments as the agency initiates activities in connection with a risk-informed/performance-based revision of Title 10, Part 61, of the *Code of Federal Regulations* (10 CFR Part 61), "Licensing Requirements for Land Disposal of Radioactive Waste."

Among other things, the link contains information on background, the staff initiative to revise 10 CFR Part 61, and the recent public workshop. In regard to the latter item, the link includes copies of the revised agenda and presentation slides.

The web link can be found at http://www.nrc.gov/about-nrc/regulatory/rulemaking/potential-rulemaking/potential-part61-revision.html.

Background

The Commission's licensing requirements for the disposal of low-level radioactive waste in near-surface [approximately the uppermost 30 meters (100 feet)] facilities reside in Part 61. These regulations were published in the *Federal Register* on December 27, 1982 (47 *Federal Register* 57446). The rule applies to any near-surface LLW disposal technology, including shallow-land burial, engineered land disposal methods such as below-ground vaults, earth-mounded concrete bunkers, and augered holes. The regulations emphasize an integrated systems approach to the disposal of commercial low-level radioactive waste, including site selection, disposal facility design and operation, minimum waste form requirements, and disposal facility closure.

To lessen the burden on society over the long periods of time contemplated for the control of the radioactive material, and thus lessen reliance on institutional controls, Part 61 emphasizes passive rather than active systems to limit and retard releases to the environment. Development of the Part 61 regulation in the early 1980's was based on several assumptions as to the types of wastes likely to go into a commercial low-level radioactive waste disposal facility.

To better understand what the likely inventory of wastes available for disposal might be, the NRC conducted a survey of existing low-level radioactive waste generators. The survey, documented in Chapter 3 of NUREG–0782—the Draft Part 61 Environmental Impact Statement (DEIS)—revealed that there were about 36 distinct commercial waste streams consisting of approximately 24 radionuclides of potential regulatory interest.

The specific waste streams in question were representative of the types of commercial low-level radioactive waste being generated at the time. Waste streams associated with DOE's nuclear defense complex were not considered as part of the survey, since disposal of those wastes, at that time, was to be conducted at the DOE-operated sites.

Over the last several years there have been a number of developments that have called into question some of the key assumptions made in connection with the earlier Part 61 DEIS, including:

- the emergence of potential low-level radioactive waste streams that were not considered in the original Part 61 rulemaking, including large quantities of depleted uranium, and possibly incidental wastes associated with the commercial reprocessing of spent nuclear fuel;
- DOE's increasing use of commercial facilities for the disposal of defense-related low-level radioactive waste streams; and,
- extensive international operational experience in the management of low-level radioactive waste and intermediate-level radioactive wastes that did not exist at the time Part 61 was promulgated.

These developments will need to be considered if the staff undertakes a revision of Part 61.

Waste from the nation's defense programs has been managed by DOE and is not subject to Part 61. Instead, DOE has used DOE Order 435.1 to specify the disposal requirements for this waste. The current version of this Order has been in place for about 11 years and applies to management of radioactive waste within the DOE complex. Like Part 61, Order 435.1 places a heavy emphasis on performance assessment as part of its radioactive waste management decision making. DOE recently started a comprehensive revision of Order 435.1, which it plans to complete sometime in 2011. The staff plans to consider any modifications to Order 435.1 as part of a comprehensive revision to Part 61. In SRM–M100617B (ADAMS ML1018203015), the Commission directed the staff to outline its approach to initiate activities in connection with a possible revision to Part 61 that is risk informed, performance-based.

However, before the start of any rulemaking process, NRC staff recommended that it engage stakeholders and solicits their views on whether there should be amendments to the current Part 61 and, if so, what the nature of those amendments should be. This approach is consistent with NRC's openness policy and with the type of public outreach used by the staff to develop Part 61.

Additional information including an agenda and the web site where all meeting documents can be found have be posted on the agency's web site at www.nrc.gov.

For additional information, please contact Michael Lee at (301) 415–6887 or at Mike.Lee@nrc.gov; Donald Lowman at (301) 415–5452 or at Donald.Lowman@nrc.gov; or, Antoinette Walker-Smith at (301)415–6390 or at Antoinette.Walker-Smith@nrc.gov.

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international community. The review is carried out in three phases: 1) a self assessment (conducted in 2007 and 2009); 2) a peer review onsite (October 17-29, 2010); and, 3) a follow-up peer review (18-24 months following the peer review).

As the host regulator, the NRC began phase two in October 2010 by providing to the IRRS team a detailed self-assessment of 10 core subject areas covering U.S. nuclear reactor safety regulations and their relationship to IAEA safety standards. The IRRS team provided an independent peer review of the self-assessment, interviewed NRC staff, examined documents and observed NRC inspectors conducting inspection activities. The team drafted a report outlining its observations and recommendations at the conclusion of the visit, and provided the final report to the NRC this month.

The IAEA has conducted IRRS missions in several countries including Romania, United Kingdom, France, Australia, Japan, Mexico and Canada. Additional information on the IRRS program is available on the IAEA web site at http://www-ns.iaea.org/reviews/rs-reviews.htm.

The final IRRS report and the NRC's IRRS activities are outlined and available on the NRC web site at http://www.nrc.gov/public-involve/conference-symposia/irrs-mission-review.html.

Schedule re Upcoming LLW Activities at NRC

Milestone	Date
Conduct public workshop on CA BTP (Rockville, MD)	Feb. 24, 2011
DOE/NRC workshop on Part 61 (Phoenix, AZ)	March 4, 2011
Issue blending Interim Guidance	March 31, 2011
Close comment period on CA BTP	April 15, 2011
Part 61 Limiting Rulemaking Documents public: *Preliminary Rule Text, White Paper on Period of Performance and Regulatory Basis*	May 4, 2011
Conduct public meeting on Period of Performance	May 18, 2011
Brief ACRS on CA BTP (Rockville, MD)	June 2011
EPRI International LLW Conference – NRC Presentation on Part 61	June 2011
Complete Commission paper on VRPS	August 2011
LLW Forum Meeting – NRC Presentation on Part 61	October 2011
Complete Commission paper on UWS proposed rule	October 2011
Issue draft VRPS for public comment	October 2011
Issue draft CA BTP for public comment	October 2011
Conduct public workshop on CA BTP (New Mexico)	October 2011
Issue Commission paper with proposed final VRPS	December 2011
Issue Final CA BTP	June 2012
Issue Commission paper with proposed final UWS rule	October 2012
Commission paper on Part 61 revisions	December 2012

** *Highlight indicates opportunity for public participation*

License Renewals Continue to Move Forward

The U.S. Nuclear Regulatory Commission continues to process license renewal applications from various nuclear power plant operators. In that regard, the agency recently took the following actions:

• On April 1, 2011, NRC staff issued the agency's final supplemental environmental impact statement (SEIS) and the final safety evaluation reports (SERs) for the proposed renewal of the operating licenses for the Salem and Hope Creek nuclear power plants. The reports concluded that there are no environmental impacts that would preclude a 20-year extension of the operating licenses for the plants, which are operated by PSEG and co-located in Hancocks Bridge (Salem County), New Jersey. PSEG is seeking license extensions for Salem Units 1 and 2, which are pressurized-water reactors, and Hope Creek, which is a boiling-water reactor. The company submitted the applications on August 18, 2009. The current operating licenses for the plants are set to expire as follows: Salem 1 on August 13, 2016; Salem 2 on April 18, 2020; and Hope Creek on April 11, 2026.

• On March 10, 2011, NRC announced that it has voted to conclude the legal proceeding regarding renewal of the operating license for the Vermont Yankee Nuclear Power Station near Brattleboro, Vermont for an additional 20 years. The decision to renew the license comes after thorough and extensive safety reviews of the application. The plant's operator, Entergy Nuclear Operations, submitted the renewal application on January 27, 2006. The renewed license will now expire on March 21, 2032.

• On March 9, 2011, a three-judge panel of the Atomic Safety and Licensing Board (ASLB) conducted an evidentiary hearing regarding a contention raised in the Pilgrim nuclear power plant license renewal proceeding. The contention was submitted by the non-profit citizen's organization Pilgrim Watch and involves Severe Accident Mitigation Alternatives (SAMAs). Entergy submitted an application for a 20-year extension of the Pilgrim operating license on January 25, 2006. The plant's initial 40-year operating license is due to expire on June 8, 2012, but will remain in effect until the Commission has issued a final ruling on the renewal application.

• On March 2, 2011, NRC staff held two public meetings in Bay City, Texas on the environmental review of the South Texas Project (STP) Nuclear Operating Company's application to renew the operating licenses for the STP nuclear reactors near Bay City. The public was invited to attend and comment on environmental issues that NRC should consider in its review of the proposed license renewal. STP Units 1 and 2 are both pressurized-water nuclear reactors. The plant's current operating licenses for Units 1 and 2 will expire on August 20, 2027 and on December 15, 2028, respectively. The licensee, submitted the renewal application on October 26, 2010.

• On February 24, 2011, NRC announced renewal of the operating license for the Kewaunee Power Station for an additional 20 years. The Kewaunee power station has one pressurized water reactor. The current operating license for the plant—which is located 27 miles east of Green Bay, Wisconsin—was due to expire on December 21, 2013. The plant's operator, Dominion Energy Kewaunee Inc., submitted its license renewal application on August 14, 2008. The renewed license for the plant will now expire on December 21, 2033.

Under NRC regulations, a nuclear power plant's original operating license may last up to 40 years. License renewal may then be granted for up to an additional 20 years, if NRC requirements are met. To date, NRC has approved license extension requests for 63 reactor units. In addition, NRC is currently processing 12 other license renewal requests.

For a complete listing of completed renewal applications and those currently under review, go to http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.

ESP & COL Application Reviews Continue

The U.S. Nuclear Regulatory Commission continues to process Early Site Permit (ESP) and Combined License (COL) applications.

An ESP, if approved, means that the site is suitable for a nuclear power facility, contingent on the approval of an additional application for a construction permit or combined license. An ESP is valid for 10 to 20 years and can potentially be renewed for an additional 10 to 20 years.

If issued, a COL provides authorization to construct and, with conditions, operate a nuclear power plant at a specific site and in accordance with laws and regulations.

In this regard, the agency will take and/or recently took the following actions:

• On March 25, 2011, NRC announced that it has completed its Final Supplemental Environmental Impact Statement (FSEIS) for a limited work authorization (LWA) and COL for the proposed Vogtle Units 3 and 4 reactors. NRC, in its FSEIS, concluded that there are no environmental impacts that would preclude issuing the LWA and COLs for construction and operation of the proposed reactors at the site. Southern Nuclear Operating Company submitted its new reactor application for Vogtle on March 23, 2008, and supplemented the application on October 2, 2009. Southern is applying for licenses to build and operate two AP1000 reactors at the Vogtle site, adjacent to the company's existing reactors approximately 26 miles southeast of Augusta, Georgia.

• On March 16-17, 2011, the Atomic Ssafety and Licensing Board (ASLB) heard oral argument relating to the Victoria County Station ESP proceeding. The ASLB is the independent body within NRC that presides over hearings where the public can challenge proposed licensing and enforcement actions. The ASLB hearing was open for public observation, but participation was limited to authroized representatives of the groups taking part in the proceeding including Texans for a Sound Energy Policy (TSEP), Exelon Nuclear Texas Holdings (the applicant), and NRC staff. Exelon submitted the application on March 25, 2010 seeking the NRC's determination on whether the site is suitable for a nuclear power facility, contingent on the approval of an additional application for a construction permit or combined license. The ASLB is considering whether to grant TSEP intervenor status. The group has submitted several objections, or contentions, challenging Exelon's application. The purpose of the oral argument was to determine whether TSEP's contentions meet the NRC requirements to be admitted for hearing under NRC's jurisdiction.

• On March 2, 2011, NRC announced that it has completed its Final Environmental Impact Statement (FEIS) for the proposed South Texas Project Units 3 and 4 reactors. The FEIS concludes that there are no environmental impacts that would preclude issuing the COLs for construction and operation of the proposed reactors at the site. NRC received the South Texas Project COL application on September 27, 2007. The applicant, Nuclear Innovation North America, seeks approval to build and operate two Advanced Boiling Water Reactors (ABWRs) at the site.

• On February 8, 2011, NRC announced that the agency is seeking public comment on an update to the FSEIS for a proposed third reactor at the North Anna site—located near Mineral, Virgina. NRC staff will consider written comments on environmental issues that were submitted prior to March 9, 2011. In applying for a COL for North Anna Unit 3, Dominion Virginia Power referenced the North Anna ESP that the NRC issued in November 2007. In order to supplement

the ESP's environmental findings, NRC reviewed the COL application's environmental information, issuing the FSEIS in March 2010. Dominion revised the application in June 2010 to reflect a change in reactor design from GE-Hitachi's Economic Simplified Boiling Water Reactor to Mitsubishi's U.S. Advanced Pressurized Water Reactor (US-APWR).

Additional information on the NRC's new reactor licensing process is available on the agency's web site at http://www.nrc.gov/reactors/new-reactor-licensing.html.

Framework Set re Mandatory Hearings on New Reactor Licenses

The U.S. Nuclear Regulatory Commission has finalized how it will conduct mandatory hearings on the first applications for Combined Licenses (COLs) for nuclear power reactors.

"These hearings will allow the Commission to ensure the agency has met its safety and security responsibilities," said NRC Chairman Gregory Jaczko. "It was important for the Commission to take this last step to finalize the process for making decisions on licensees for new nuclear power plants."

The mandatory hearing process will begin after the staff issues its final Safety Evaluation Report and Environmental Impact Statement for a COL application. Using information gathered during the hearing process, the Commission will decide the findings necessary for the NRC to determine whether to issue a license to build and operate a nuclear power plant.

The Commission intends to issue a decision on the uncontested issues within four months of the issuance of those reports, unless the reactor design referenced in the application is the subject of an ongoing design certification rulemaking. In this case, the Commission would issue its hearing decision if and when the Commission affirms the related design certification rule.

The Atomic Energy Act requires hearings on COL applications. While the NRC's Atomic Safety and Licensing Board conducts "contested" hearings when members of the public challenge a license application or the staff's environmental review, the Commission previously decided it will conduct the mandatory hearings, which are separate from contested hearings.

Comments Sought on Proposed Rule re New Reactor Construction

The U.S. Nuclear Regulatory Commission is seeking public comment on proposed changes to its regulations that require new reactor license holders to verify nuclear power plant construction activities through inspections, tests, analyses, and acceptance criteria (ITAAC).

The proposed rule, which was published in the *Federal Register* in February 2011, would set additional requirements for new reactor licensees including:

1) reporting new information that materially alters the licensee's basis for determining that inspections, tests, or analyses were performed as required, or that acceptance criteria are met; and,
2) notifying the NRC of completion of all ITAAC activities.

In addition, the proposed changes would update the rule's language to correct and clarify ambiguous language and make it consistent with the Atomic Energy Act of 1954, as amended.

For additional information on the proposed rule, please contact Nanette Gilles at (301) 415-1180 or via e-mail at Nanette.Gilles@nrc.gov.

NRC Disapproves Additional Security at New Reactor Sites

On March 31, 2011, the U.S. Nuclear Regulatory Commission announced that it voted down a recommendation by staff to publish for public comment a proposed rule that would have established additional security requirements during nuclear power plant construction.

Chairman Gregory Jaczko, who voted in favor of the proposed rule, expressed disappointment in the decision. "The safety and security of any new reactors that may be built in this country is of vital importance and I am disappointed in the final decision not to move forward," he said. "I believe we should have at least provided the public with an opportunity to comment on this important proposal to strengthen security measures related to new reactor construction."

The proposed rule would have required additional physical protection of a construction site and would have included several types of security measures, such as ensuring only authorized personnel are onsite, performing high-quality security sweeps of the site, and the ability to lock down and secure the reactor's security- and safety -related structures, systems, and components during nuclear power plant construction.

Rather than allowing the staff to proceed with the proposed rule, the Commission directed staff instead to communicate to the nuclear power industry the agency's support for its voluntary implementation of access authorization controls and physical protection measures during construction, as described in NEI 09-01, a document published by the Nuclear Energy Institute. In addition, the Commission's vote suggests that there are already sufficient regulations and inspections that require licensees to: establish a fully operational security program, address quality assurance during construction, and provide for a construction reactor oversight program.

Comments Sought re Certification of ESBWR Reactor Design

In late March 2011, the U.S. Nuclear Regulatory Commission announced that the agency is seeking comments on a proposed rule that would certify GE-Hitachi Nuclear Energy's Economic Simplified Boiling-Water Reactor (ESBWR) design for use in the United States.

The design certification process provides for early public participation and resolution of safety issues for proposed reactor designs. NRC certification, in the form of a final rule, means the design meets the agency's applicable safety requirements. If an applicant for a nuclear power plant license references a certified design, the applicant need not submit safety information for the design. Instead, the license application and the NRC's safety review would address the remaining safety issues for the proposed nuclear power plant.

GE-Hitachi Nuclear Energy submitted an application for certification of the ESBWR standard plant design on August 24, 2005. The ESBWR is a 1,594 megawatt electric, natural circulation reactor. It includes passive safety features that would cool down the reactor after an accident without the need for human intervention.

NRC conducted an extensive technical evaluation of the design and issued a final safety evaluation report (FSER) in March 2011. The FSER provides the basis for the design certification now being considered for addition to NRC's regulations at 10 CFR Part 52. The FSER is available through http://www.regulations.gov by searching under Docket ID NRC-2010-0135.

NRC is currently reviewing a Combined License application referencing the ESBWR design certification application from the Detroit Edison Electric Company for Fermi Unit 3. The NRC has certified four other standard reactor designs:

the Advanced Boiling Water Reactor (ABWR), System 80+, AP600, and the AP1000. The agency has published proposed rules to amend the ABWR and the AP1000.

The public can view the NRC's Federal Register notice at http://edocket.access.gpo.gov/2011/pdf/2011-6839.pdf. Comments may be submitted for 75 days after publication.

Additional information about the ESBWR design review can be found at http://www.nrc.gov/reactors/new-reactors/design-cert/esbwr.html.

Comments Sought re Amending AP1000 Reactor Design

The U.S. Nuclear Regulatory Commission is seeking comments on a proposed rule that would amend Westinghouse's certified AP1000 reactor design for use in the United States. The design to be certified is fully described in a "design control document," which would be approved (incorporated by reference) in the design certification rule. NRC has also prepared an environmental assessment of the design to support the rulemaking. The environmental assessment discusses possible design alternatives that could be included in the design certification to mitigate potential severe accidents.

The design certification process provides for early public participation and resolution of safety issues for proposed reactor designs. NRC certification, in the form of a final rule, means that the design meets the agency's applicable safety requirements. If an applicant for a nuclear power plant license references a certified design, the applicant need not submit safety information for the design. Instead, the license application and the NRC's safety review would address the remaining safety issues specific to the proposed nuclear power plant.

Westinghouse submitted an application for certification of the original AP1000 standard plant design on March 28, 2002. NRC issued a rule certifying the design on January 27, 2006. Westinghouse submitted an application to amend the AP1000 on May 27, 2007. The AP1000 is an 1,100 megawatt electric pressurized-water reactor that includes passive safety features that would cool down the reactor after an accident without the need for human intervention.

NRC conducted an extensive technical evaluation of the design and issued a final safety evaluation report (SER) in December 2010. The FSER provides the basis for the design certification now being considered for addition to NRC's regulations at 10 CFR Part 52.

NRC is currently reviewing six Combined License applications that reference the amended AP1000 design. NRC has certified three other standard reactor designs: the Advanced Boiling Water Reactor, System 80+, and AP600. The agency is currently reviewing applications to certify the Economic Simplified Boiling Water Reactor, the U.S. Advanced Pressurized Water Reactor and the EPR pressurized-water reactor.

The design control document, environmental assessment, and final safety evaluation report are available through the Federal e-Rulemaking web site at http://www.regulations.gov by searching under Docket ID NRC-2010-0131.

Additional information about the AP1000 design review can be found at http://www.nrc.gov/reactors/new-reactors/design-cert/amended-ap1000.html.

Groundwater Task Force Briefing Opening Remarks

U.S. Nuclear Regulatory Commission Chairman Gregory Jaczko made the following opening remarks at the agency's briefing on the Groundwater Task Force in late February 2011:

> Good morning. The Commission meets today to receive a briefing on the Groundwater Task Force. For a number of years now, the agency has dedicated increased attention to this issue. Our actions—as well as those of our licensees—have been subjected to a high level of scrutiny by members of the public, elected officials, and other stakeholders. One sign of the high level of public interest in this issue is that the most widely viewed archived webcast in the past year on the NRC's website was the April 20, 2010, Groundwater Contamination Workshop, with over 2,000 viewers.
>
> While the agency has concluded that the leaks to this point have not endangered public health and safety, we have tried to be proactive in identifying potential ways we can improve our efforts in this area. In 2006, the NRC created a special task force to conduct a lessons-learned review of leaks at several power plants. That review led to more than two dozen recommendations, many of which have been incorporated into agency guidance. In 2009, the NRC followed up these efforts by establishing the independent staff Groundwater Task Force to review the adequacy of the agency's oversight in this area. During today's meeting, the Commission will be looking at the NRC's senior management review of the Task Force's work and recommendations, as well as hearing from a broad range of stakeholders on this issue. I would like to thank the staff for their thorough look at this issue.

NRC Proposes FY 2012 Budget to Congress

Detailed Budget Justification Report Available

In early March 2011, the U.S. Nuclear Regulatory Commission announced that the agency has requested $1.038 billion in its fiscal year 2012 budget proposal to Congress to regulate nuclear power plants and users of nuclear materials to protect people and the environment. The budget represents a $28.7 million decrease from the agency's FY 2010 enacted level.

The FY 2012 budget breakout is as follows:

- Nuclear Reactor Safety: $800.8 million
- Nuclear Materials and Waste Safety: $226.5 million
- Inspector General: $10.9 million

By law, NRC recovers approximately 90 percent of its budget from user fees less other activities that are not fee recoverable. As such, NRC's FY 2012 budget request would be financed with approximately $909.5 million from user fees, resulting in a net appropriation of approximately $128.6 million.

The detailed NRC Congressional Budget Justification report for FY 2012 (NUREG-1100, Vol. 27) is available on NRC's web site at http://www.nrc.gov at the bottom left-hand corner. The report provides information in addition to the FY 2012 budget press briefing slides that were posted February 14. A limited number of hard copies of the report are available by contacting the Office of Public Affairs at OPA.Resource@nrc.gov.

NRC Issues Annual Assessment Letters to Plants

The U.S. Nuclear Regulatory Commission has issued annual assessment letters to the nation's 104 operating commercial nuclear power reactors. As of December 31, 2010, 98 of 104 nuclear reactors were in the two highest performance categories.

There are five levels of plant performance based on a detailed assessment of performance indicators (i.e., safety system availability and reliability, control of radiation exposure and unplanned shutdowns) and inspection findings. Levels range from "fully meeting all safety cornerstone objectives" (highest level) to "unacceptable performance" (lowest level).

All nuclear plants are inspected daily by the NRC. If a plant's performance declines, the NRC increases the level of inspection and oversight to ensure that the plant operator is taking the steps necessary to correct the situation. The additional amount of inspection is commensurate with the level of plant performance.

Eighty-nine nuclear plant reactors performed at the highest level and were inspected by NRC using the normal detailed level inspection program. Nine nuclear reactors performed at the next highest level, need to resolve one or two items of low safety significance. For this level, regulatory oversight includes additional inspection and attention to follow up on corrective actions. Six nuclear reactors were at the third level of performance with one or more degraded safety cornerstone. For this performance level, regulatory oversight includes more NRC inspections, senior management attention and oversight focused on the cause of the degraded performance.

Since the end of 2010, NRC routinely provides changes to information on plant performance and posts the latest information as it becomes available to the NRC web site at http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/actionmatrix_summary.html.

Each plant receives either a mid-cycle review letter or an annual assessment letter every six months, along with an NRC inspection plan. The next mid-cycle assessment letters will be issued in September 2011.

Annual assessment letters sent to each licensee are available on the NRC web site at http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/listofasmrpt.html.

To Obtain Federal Government Information

by telephone

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To access a variety of documents through numerous links, visit the web site for the LLW Forum, Inc. at www.llwforum.org

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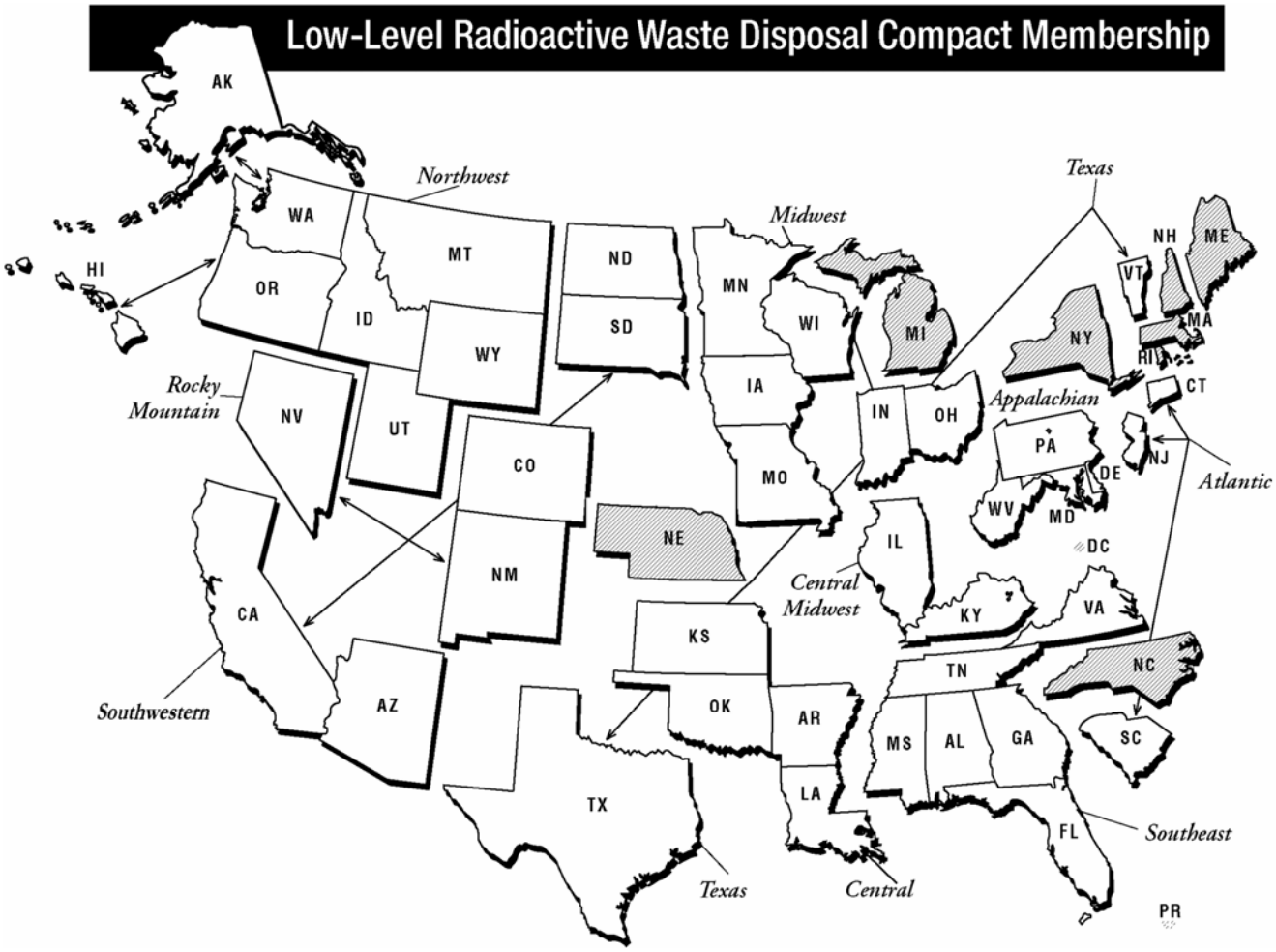
LLW Notes, LLW Forum *Contact Information* and the *Summary Report: Low-Level Radioactive Waste Management Activities in the States and Compacts* are distributed to the Board of Directors of the LLW Forum, Inc. As of March 1998, *LLW Notes* and membership information are also available on the LLW Forum web site at www.llwforum.org. The *Summary Report* and accompanying Development Chart have been available on the LLW Forum web site since January 1997.

As of March 1996, back issues of these publications are available from the National Technical Information Service at U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, or by calling (703) 605-6000.



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South Carolina

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Rocky Mountain Compact
Colorado
Nevada
New Mexico

Northwest accepts Rocky Mountain waste as agreed between compacts

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Tennessee
Virginia

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