

# LLW *notes*

Volume 16, Number 2 March/April 2001

*Texas Compact / Texas*

## LLW Bills Introduced in Texas

Several bills have been introduced in Texas this legislative session which pertain to the management and disposal of low-level radioactive waste. The following is a brief summary of major points of the legislation, as introduced. This summary is in no way intended to be a comprehensive analysis of the legislation. Persons interested in more detail are directed to the bills themselves. Copies of the bills, as well as status reports, can be found at [www.capitol.state.tx.us](http://www.capitol.state.tx.us).

### House Bill No. 8

This bill, among other things, provides for the possibility of construction of an assured isolation facility in the State of Texas. In addition, it provides for the issuance of a license for a disposal or assured isolation facility to a private entity. However, the bill contains the following language limiting waste disposal by the U.S. Department of Energy in a private facility:

“The total radioactivity of United States Department of Energy wastes licensed for disposal at a site owned by a private entity shall be twenty percent less than the radioactivity of wastes projected to be received pursuant to the

Texas Low-Level Radioactive Waste Disposal Compact, unless the radioactivity is otherwise exempt or existing in nature.”

H.B. 8 also contains language that limits the state’s liability for waste that is accepted or stored at a site owned or operated by a private entity and that requires reporting of the disposal of low-level radioactive waste. In addition, the bill contains siting criteria, including the prohibition of a site within 62 miles of the Mexican border or in which the average annual rainfall is greater than 26 inches.

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# Low-Level Radioactive Waste Forum, Inc.

## LLW Notes

Volume 16, Number 2 March/April 2001

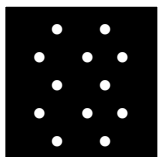
Editor and Writer: Todd D. Lovinger

Layout and Design: Rita Houskie, Central Interstate Low-Level Radioactive Waste Compact

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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.



LLW  
FORUM, INC

Low Level Radioactive Waste Forum, Inc.  
2227 20<sup>th</sup> Street N.W., Unit 301  
Washington, DC 20009  
(202) 265-7990  
FAX (202) 265-7995  
E-MAIL [llwforuminc@aol.com](mailto:llwforuminc@aol.com)  
INTERNET [www.llwforum.org](http://www.llwforum.org)

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## Key to Abbreviations

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

## LLW Forum Continues Operations, Achieves Broad Membership Base

During the first quarter of 2001, the recently reorganized Low-Level Radioactive Waste Forum, Inc. set up offices and began operations as an independent, non-profit corporation. Several News Flashes were distributed on a variety of issues related to low-level radioactive waste management and disposal and the first newsletter was published. In addition, liaison functions continued amongst states, compacts, federal agencies, operators, generators, and others. The winter meeting of the LLW Forum was held in Point Clear, Alabama from March 12 – 14, 2001. (*See related story, this issue.*)

### Membership

Under its new structure, 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.

To date, eight of the nine operating compacts have joined the LLW Forum as members, as have six of the seven host states, five unaffiliated states, one federal agency and one operator. Members include the following:

<b>Compacts</b>	<b>Host States</b>	<b>Unaffiliated States</b>	<b>Associate Members</b>
Appalachian Compact	Nebraska	Massachusetts	U.S. Department of Energy
Atlantic Compact	Pennsylvania	Michigan	Envirocare of Utah
Central Compact	South Carolina	New Hampshire	
Midwest Compact	Texas	New York	
Northwest Compact	Utah	Rhode Island	
Rocky Mountain Compact	Washington		
Southeast Compact			
Southwestern Compact			

The following entities have provided grants or gifts or purchased materials subscriptions and are considered supporters of the LLW Forum:

National Association of Attorneys' General	North Atlantic Energy Service Corporation
Nuclear Energy Institute	U. S. Department of the Army

### Next Meeting

The Rocky Mountain Low-Level Radioactive Waste Compact has volunteered to sponsor the fall meeting of the LLW Forum, Inc. That meeting will be held in Denver, Colorado in late September/early October. Additional information will be forthcoming as logistical arrangements are concluded.

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## LLW Forum Holds Winter Meeting In Alabama

The Low-Level Radioactive Waste Forum, Inc. met in Point Clear, Alabama on March 13 and 14, 2001. The LLW Forum Executive Committee met on March 12. Seventeen LLW Forum Directors, Alternate Directors, and meeting designees representing fifteen compacts, host states, and unaffiliated states participated. In addition, one Federal Associate Member and one Non-Government Associate Member participated in the meeting. Other persons representing three federal agencies, a facility operator, an industry organization, various states and compacts, a law firm, and a private contractor also observed and participated in the meeting.

### Topics Discussed

During the course of the two day meeting, attendees heard presentations on the following topics, among others:

- new developments in states and compacts;
- the current status of the Manifest Information Management System (MIMS) and the prospects for future funding;
- the status of DOE's moratorium on the recycling of contaminated materials;
- an update on the Atlantic Compact and the allocation pools and formulas for the Barnwell facility;
- tentative approval of Envirocare's license application for a new cell for the disposal of containerized Class A, B and C waste;
- Envirocare's license amendment request for the disposal of containerized Class A waste in the existing cell;
- Envirocare's request for an exemption from state land ownership requirements;
- the recent passage of legislation to impose a tax on waste going to Envirocare;
- land ownership requirements;
- NAS panel studying alternatives for controlling the release of solid materials and industry perspectives thereon;
- entombment option for waste disposal;
- proposed disposal of waste from the Army's Ft. Greely, Alaska reactor at Envirocare of Utah; and
- Texas reports and legislation.

*Continued on page 5*

# LLW Forum, Inc. *continued*

## **LLW Forum Holds Winter Meeting (continued from page 4)**

**Election of Executive Committee and Officers** During the course of the meeting, the following persons were elected to serve on the Executive Committee and/or as officers of the LLW Forum, Inc. in 2001:

- Max Batavia of the Atlantic Compact,
- Kathryn Haynes of the Southeast Compact (Chair),
- William Sinclair of the State of Utah,
- Leonard Slosky of the Rocky Mountain Compact (Vice Chair),
- Thor Strong of the State of Michigan,
- Terrence Tehan of the State of Rhode Island, and
- Stanley York of the Midwest Compact (Secretary/Treasurer).

**DoD Resolution** Following the Ft. Greely waste disposal discussion, Directors of the LLW Forum, Inc. unanimously passed the following resolution:

**Resolved that representatives of the Rocky Mountain Board and the Northwest Compact draft a letter on behalf of the LLW Forum, Inc. expressing concern regarding several recent developments relating to U.S. Department of Defense (DoD) radioactive waste management and requesting a meeting with the Acting Deputy Undersecretary of Defense (Environmental Security).**

**Other Actions** During the course of the meeting, the Directors discussed distribution of LLW Forum materials. Licensing agreements for access to the LLW Forum, Inc.'s web site and written materials are being drafted and will be distributed for signature shortly. In addition, a draft Operating Procedures document will also soon be distributed to LLW Forum Directors and Alternates.

A complete meeting report and attendance list for the winter meeting of the LLW Forum, Inc. can be found on the members-only portion of the web site at [www.llwforum.org](http://www.llwforum.org).

## **LLW Forum Continues Operations (continued from page 3)**

### **Management and Contact Information**

The LLW Forum, Inc.'s new contact information is as follows:

Low-Level Radioactive Waste Forum, Inc.  
c/o Todd D. Lovinger  
2227 20th Street, N.W.  
Suite 301  
Washington, D.C. 20009

Phone: (202) 265-7990  
Fax: (202) 265-7995  
Email: [llwforuminc@aol.com](mailto:llwforuminc@aol.com)  
Web: [www.llwforum.org](http://www.llwforum.org)

*For additional information about the LLW Forum, or to become a member or supporter of the organization, please contact Todd Lovinger at (202) 265-7990.*

# States and Compacts

## *Appalachian Compact/Pennsylvania*

### **Pennsylvania DEP Secretary Becomes PPL Vice-Pres**

Effective April 2, James Seif—who has served as Secretary of the Pennsylvania Department of Environmental Protection for six years, as well as Chair of the Appalachian States Low-Level Radioactive Waste Commission—became Vice President of Corporate Services at PPL Services Corporation. David Hess has been nominated to replace Seif as DEP Secretary. Jane Nishida, the Appalachian Compact Commission's Vice-Chair, is serving as Acting Chair until a new election can be held.

Seif served in both state and federal government positions, as well as in the private sector, prior to his appointment to the DEP cabinet position in January 1995. In his new position, Seif will focus on government relations, communications, information services, and human resources functions.

Prior to his nomination, Hess served as DEP's Executive Deputy for Policy and Communications. Before that, he served as the Executive Director of the Senate Environmental Resources and Energy Committee.

## *Atlantic Compact / South Carolina*

### **Debate Begins re Chem-Nuclear's Operating Costs**

On April 9, the South Carolina Public Service Commission will conduct a hearing to, for the first time, set Chem-Nuclear's operating costs for the Barnwell low-level radioactive waste disposal facility. State law allows Chem-Nuclear a 29 percent profit margin, based on the operating costs, of its estimated \$60 million in total revenues. Remaining monies are contributed to fund public education.

Chem-Nuclear estimates its operating costs to be \$13.2 million. However, the State Budget and Control Board claims Chem-Nuclear's estimate is too high. Recent news reports indicate that the board will argue that Chem-Nuclear's true costs should be no higher than \$6.8 million per year based on operational costs for the Richland, Washington low-level radioactive waste disposal facility run by US Ecology.

The Budget and Control Board, Chem-Nuclear, and Public Service Commission staff attorneys are all expected to present testimony at the hearing.

### **American Ecology Purchases Envirosafe**

American Ecology, the Idaho based parent company of US Ecology, recently acquired Envirosafe Services of Idaho, the operator of a hazardous waste site licensed to manage waste streams regulated under the Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act (TSCA), and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). By so doing, American Ecology will now be able to compete for disposal contracts covering low-activity radioactive waste, including Formerly Utilized Sites Remedial Action Program (FUSRAP) waste being disposed of by the Army Corps of Engineers.

Envirosafe was awarded one of three five-year indefinite delivery/indefinite quantity contracts for the disposal of FUSRAP waste from the Corps in mid-1999. (See *LLW Notes*, June/July 1999, p. 26.) There was heavy competition for the contracts, including the filing of a lawsuit by Envirocare of Utah which challenged the Corps' bidding and procurement process. (See *LLW Notes*, June/July 1999, pp. 16-18.) The Corps' disposal practices continue to be a controversial topic amongst states and compacts. (See *LLW Notes*, January/February 2001, pp. 15-18.)

### *Atlantic Compact / South Carolina continued*

## Max Batavia Appointed Executive Director of the Atlantic Compact

In February 2001, Max Batavia was appointed Executive Director of the Atlantic Interstate Low-Level Radioactive Waste Compact. Batavia, who has a Master's Degree in Chemical Engineering from the University of South Carolina, worked for the U.S. Department of Energy in 1999 as a Special Assistant in the Office of Environmental Management. Prior to his work for DOE, Batavia served as a consulting engineer with ERM and held various positions in the Air, Water and Radiation Programs of the South Carolina Department of Health and Environmental Control.

The Atlantic Compact Commission—which serves the states of Connecticut, New Jersey and South Carolina—relocated its offices to South Carolina in January 2001. Commissioners and Alternate Commissioners to the Atlantic Compact Commission were named in December 2000. (See *LLW Notes*, January/February 2001, p. 7.)

***For additional information, contact Max Batavia of the Atlantic Compact Commission at (803) 737-1928 or visit the Compact's web site at [www.atlanticcompact.org](http://www.atlanticcompact.org)***

### *Northwest Compact/Utah*

## Utah Imposes Tax on Radioactive Waste Disposal

On February 28, both houses of the Utah legislature passed legislation which would, among other things, impose regulations, fees and taxes on the disposal of low-level radioactive waste at Envirocare of Utah. The bill, 2<sup>nd</sup> substitute H.B. 370, passed the Senate by a vote of 15 – 14 and the House by a vote of 57 – 15. The bill was signed by Utah Governor Mike Leavitt on March 19, 2001.

As enacted, the legislation

- requires generators or brokers of radioactive waste to obtain a permit to transfer the waste to a commercial radioactive waste treatment or disposal facility;
- imposes fees for generator site access permits;
- modifies the regulatory fee for a commercial radioactive waste treatment or disposal facility;
- imposes an annual fee on a commercial radioactive waste treatment or disposal facility to be used for the perpetual care and maintenance of the facility after closure;
- imposes a gross receipts tax on certain radioactive waste transferred to a radioactive waste facility for reprocessing, treatment, or disposal; and
- provides for the study of issues relating to radioactive waste.

## States and Compacts *continued*

### ***Northwest Compact / Utah*** ***continued***

#### **Fee for Commercial Radioactive Waste Disposal or Treatment**

The act requires an owner or operator of a commercial radioactive waste treatment or processing facility that receives radioactive waste to collect a fee from the generator. Beginning July 1, 2001, the fee is equal to the sum of

- 10 cents per cubic foot, or fraction thereof, of radioactive waste—other than byproduct material—received for treatment or disposal, and
- \$1 per curie, or fraction thereof, of radioactive waste—other than byproduct material—received for treatment or disposal.

The fees are to be deposited into an Environmental Quality Restricted Account which will be available for, among other things, paying the costs of administering the radiation control program.

#### **Fee for Perpetual Care and Maintenance**

The act provides for the creation of a Radioactive Waste Perpetual Care and Maintenance Fund “to finance perpetual care and maintenance of commercial radioactive waste treatment or disposal facilities, excluding sites within those facilities used for the disposal of byproduct material.” Under the terms of the act, “[o]n or after July 1, 2002, the owner or operator of an active commercial radioactive waste treatment or disposal facility shall pay an annual fee of \$400,000 to provide for the perpetual care and maintenance of the facility.” The act specifically states that the perpetual care and maintenance fee does not apply to a uranium mill facility, the ownership of which will transfer upon license termination to the

federal government or state under the Atomic Energy Act.

#### **Generator Site Access Permits**

The act provides that “[a] generator may not transfer radioactive waste to a commercial radioactive waste treatment or disposal facility in the state [of Utah] without first obtaining a generator site access permit.” According to the terms of the act, the fees for a generator site access permit from July 1, 2001 through June 30, 2002 are as follows:

- \$1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per year;
- \$500 for generators transferring less than 1,000 cubic feet of radioactive waste per year; and
- \$5,000 for brokers.

Generator site access permit fees will be deposited into the Environmental Quality Restricted Account.

#### **Radioactive Waste Tax**

The act also provides for the imposition of a tax on radioactive waste received at a radioactive waste facility. The tax is the sum of

- 12 % of the gross receipts received from disposal of containerized Class A waste;
- 10 % of the gross receipts received from the disposal of processed Class A waste;
- 5% of the gross receipts received from the disposal of uncontainerized, unprocessed Class



# States and Compacts *continued*

## ***Northwest Compact/Utah continued***

A waste;

- 10 cents per cubic foot of byproduct material received at the facility; and
- 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for disposal.

A fraction of a cubic foot or a fraction of a curie is considered to be a full cubic foot or curie in determining the applicable tax. The tax applies to all radioactive waste received at a facility

- under a contract entered into on or after the effective date of the act;
- under a contract that is substantially modified on or after the effective date;
- under a contract renewed or extended on or after the effective date;
- under a contract entered into before the effective date, if the contract does not include state taxes as part of the reprocessing, treatment, or disposal price; or
- on or after the effective date of the act if the radioactive waste is not received pursuant to a contract.

### **Interim Study**

The act mandates that the Legislative Management Committee shall direct one or

more interim committees to study

- whether a commercial radioactive waste treatment or disposal facility should be subject to rate-of-return regulation;
- whether the state should assume ownership of all, or a part of, a commercial radioactive waste treatment or disposal facility and, if so, when the state should assume ownership;
- whether the state should continue to be a member of the Northwest Interstate Compact on Low-Level Radioactive Waste Management;
- financial assurance requirements for closure and postclosure care of commercial radioactive waste treatment or disposal facilities; and
- taxation of nuclear waste transportation.

The complete text of the 2<sup>nd</sup> substitute H.B. 370 can be found on the State of Utah's web site at [www.le.state.ut.us](http://www.le.state.ut.us)

*For further information, please contact Bill Sinclair of the Utah Division of Radiation Control at (801) 536-4250.*

### *Northwest Compact/Washington*

## Washington AG Writes to Army and NRC re Ft. Greely Waste

Lilia Lopez, Assistant Attorney General for the State of Washington, recently wrote to both the U.S. Nuclear Regulatory Commission and the Department of the Army concerning the proposed shipment of waste from a reactor at Ft. Greely, Alaska to the Envirocare of Utah facility. The letters are intended to get preliminary information to be used in a final response to the Army Corps of Engineers.

### **NRC Letter**

In her March 8 letter to Paul Lohaus, Director of NRC's Office of State and Tribal Programs, Lopez inquires whether or not NRC, or its predecessor agency—the Atomic Energy Commission—does or has asserted regulatory authority over the Ft. Greely military reactor or any other military reactor. Counsel for the Corps asserts that the reactor has never been subject to such jurisdiction.

Lopez also asks, “[i]f some military reactors are or have been subject to NRC or AEC regulatory authority, while others have not . . . what distinguishes one type from the other?” In the alternative, Lopez asks “[i]f military reactors and related materials are not and have not been subject to regulation . . . why not?”

### **Corps' Letter**

Lopez' letter to the Corps requests factual information about statements made in the Corps' November 6 letter to the Northwest Compact. In her letter, Lopez writes as follows:

“By your letter you assert that the Ft. Greely reactor materials are not subject to regulation under the Atomic Energy Act by reason, at least in part, of exclusion from regulation pursuant to 42 U.S.C. § 2121(b). That provision is based on presidential authorization. Has the Corps received such authorization? If so, we request that you provide us with a copy of the authorization.

Your letter also refers to an Army-issued permit that the Corps holds for the SM-1A reactor at Ft. Greely. We would appreciate it if you would provide us with a copy of that permit. Your letter further refers to two other decommissioned Army nuclear reactors currently under Army permit but does not state how much waste material is associated with each reactor. Please provide us with information describing the amount of waste associated or expected to be associated with each reactor, including the Ft. Greely reactor.”

In concluding her letter, Lopez asserts that if the Northwest Compact determines that it has jurisdiction over the Ft. Greely waste, the Corps will need to request compact authorization to dispose of the material at Envirocare of Utah.

### **Next Step**

The Northwest Compact is meeting on April 24 at which time it will address the Ft. Greely issue.

# States and Compacts *continued*

## ***Northwest Compact/Washington continued***

### **Background**

The waste at issue consists of approximately 1,700 cubic yards of soil and debris contaminated with low-levels of cesium 137 and strontium 90. The contamination resulted from waste water discharged from a nuclear reactor formerly used to produce electricity and steam heat for the military. Two other decommissioned reactors, both located in Virginia, will necessitate similar closure and disposal decisions by the Corps in the near future.

The Corps takes the position that the waste is excluded from regulation under both the Atomic Energy Act of 1954 and the Low-Level Radioactive Waste Policy Amendments Act of 1985. The State of Alaska, however, argues that the waste falls within the jurisdiction of the Northwest Compact and can not be disposed of at the Envirocare facility without the compact's consent. Envirocare and the State of Utah have both taken a similar position, stating that the waste may not be disposed of at Envirocare's facility without a letter of approval from the Northwest Compact.

In its initial analysis, the Corps stressed that there is a substantial difference in projected costs for disposal of the Ft. Greely waste at Envirocare verses at the Northwest Compact's facility in Richland, Washington. The Corps estimates that disposal at Envirocare's facility would cost approximately \$1,550,000, whereas the cost of disposal at Richland is estimated to be approximately \$4,600,000. The State of Alaska, however, disputes the accuracy of this cost analysis.

*For a detailed history of the Ft. Greely situation, including prior correspondence from interested parties, see LLW Notes, September/October 2000, pp. 9-11.*

## ***Southwestern Compact/California***

### **LLW Bill Introduced in California**

On February 14, California State Senator Sheila Kuehl (D) introduced legislation relating to the management and disposal of low-level radioactive waste in the State of California. The bill, S.B. 243, states the legislature's intent to do the following:

- prohibit shallow land burial of low-level radioactive waste within the state and establish minimum qualifications for facility operators;
- require separation of the "highly dangerous and more benign substances" in low-level radioactive waste and authorize the establishment of an engineered facility for the temporary storage or disposal of low-level radioactive wastes generated by medicine, academia, and biotechnology;
- require that all radioactive waste be disposed of in a facility licensed to receive such waste;
- require that the current goals of the U.S. Environmental Protection Agency concerning exposure limits for radioactivity be applied to the disposal of radioactive waste and remediation of contaminated sites; and
- prohibit the zoning for residential use of any site contaminated by radioactive waste from a nuclear reactor.

S.B. 243 has been assigned to the Environmental Quality Committee. As of press time, no hearing date has been set.

# States and Compacts *continued*

## ***Texas Compact/Texas*** *continued from page 1*

### **House Bill No. 85**

This bill amends various sections of the Texas Health and Safety Code to remove the designation of Hudspeth County as the host county for the proposed Texas Compact low-level radioactive waste disposal facility. H.B. 85 is scheduled for a second reading in the Texas House of Representatives on April 10, 2001.

### **House Bill No. 1099**

H.B. 1099 requires that radioactive material licensees demonstrate that they are financially qualified to conduct the licensed activity, including the performance of decontamination, decommissioning, reclamation and disposal activities. The bill also provides for the collection of an additional five percent of the appropriate annual fee to be deposited in the radiation and perpetual care fund.

### **House Bill No. 2370**

H.B. 2370 prohibits the disposal of low-level radioactive waste in a landfill "below the natural level of a disposal site."

### **House Bill 2371**

This piece of legislation contains a requirement that a host state commissioner and an alternate must sign and present to the governor prior to his appointment a written pledge not to allow for the disposal of waste from states outside of the Texas Compact in a facility licensed by the state.

### **House Bill 2904**

H.B. 2904 removes the designation of Hudspeth County as the host for a regional low-level radioactive waste disposal facility. In addition, the bill requires that a disposal site "include above-ground isolation facilities for managing low-level radioactive waste pending disposal."

### **H.B. 2905**

This bill establishes a Low-Level Radioactive Waste Disposal Authority as a state agency charged with statewide jurisdiction over low-level radioactive waste management and disposal and creates a citizens advisory committee to perform oversight functions. It contains detailed requirements about the selection of Authority members, their powers and duties, and management site selection and acquisition. The bill also establishes a preference for above-ground, monitored storage of low-level radioactive waste. It also requires approval of the host county prior to siting of a facility.

"A management site may not be licensed by the Texas Natural Resource Conservation Commission unless the voters of the county in which the site is proposed to be located have approved of the location of the site at a referendum election called and held for that purpose."

The bill states that the Authority shall apply to the Texas Natural Resource Conservation Commission for a site license, but specifically

## States and Compact *continued*

### ***Texas Compact / Texas continued***

states that the Commission may not license the management of mixed waste. Also, a license may not be issued for below-ground disposal or shallow land burial of low-level radioactive waste. The Texas Department of Health has jurisdiction, according to the bill, over low-level radioactive waste storage activities other than assured isolation and over waste transportation to or from a management site.

#### **House Bill No. 3086**

H.B. 3086 removes the designation of Hudspeth County as the host for a regional low-level radioactive waste disposal facility. It also lays out the process for selecting a site, including a county election on whether the Texas Natural Resource Conservation Commission should be authorized to choose the site for further analysis.

#### **House Bill No. 3283**

H.B. 3283 provides for the siting of either a low-level radioactive waste assured isolation facility or disposal facility. However, if the state chooses to develop an assured isolation facility, it must conduct certain studies and meet certain specified requirements listed in the bill. In addition, the legislation prohibits the siting of a facility in a county that is adjacent to an international boundary, within 62 miles of an international boundary, and in a location that receives greater than 26 inches of rain. The bill provides for a county referendum on the siting of a facility and requires an affirmative response from a majority of those voting. In regard to below-ground burial, the bill states as follows:

“Underground disposal may be considered for the management of low-level radioactive waste

received from the compact states only if assured isolation is found not to be feasible.”

The bill requires the state to acquire ownership of the planned site prior to commencing facility construction. It also contains several limitations on the acceptance of waste from out of region generators. In addition, it includes language limiting the state's liability for the management and disposal of waste at a site operated by a private entity and outlining the creation and operation of a perpetual care fund.

#### **House Bill No. 3420/ Senate Bill No. 1541**

H.B. 3420 and S.B. 1541 are companion bills which provide for the siting of either a low-level radioactive waste assured isolation facility or disposal facility for Texas Compact waste. They contain stringent licensing requirements, license application procedures, and license conditions. They provide for the holding of a county-wide referendum. They also list siting criteria and financial assurance requirements. Once issued, the legislation allows for a 10 year license renewal.

### **Medical Uses of Isotopes**

On April 18, the U.S. Nuclear Regulatory Commission's Advisory Committee on the Medical Uses of Isotopes (ACMUI) will meet in Rockville, Maryland. The meeting will focus on the issuance of a new rule on medical uses of byproduct material (10 CFR 35).

*For additional information, please contact Angela Williamson of the NRC Office of Nuclear Materials Safety and Safeguards at (301) 415-5030.*

### **WCS to Use New Mixed Waste Cleanup Technology**

Waste Control Specialists, L.L.C.—the operator of a hazardous and radioactive waste management and disposal facility in Andrews County, Texas—will become the first fixed facility to use a proprietary mixed waste cleanup technology developed by Commodore Applied Technologies, Inc. The two companies recently signed a multi-year contract for use of the Solvated Electron Technology (SET) which treats mixed waste by destroying the hazardous elements, thereby making the waste acceptable for on-site disposal.

In announcing the deal, Shelby Brewer—Chair and Chief Executive Officer of Commodore—made the following statement:

“Commodore’s relationship with WCS will be the cornerstone of our company’s emphasis on mixed waste cleanup . . . We believe that the WCS facility will be one of the premier mixed waste treatment and disposal facilities in the U.S. and will make Commodore Applied Technology well known in the industry.”

### **NEI Officer Predicts Most Nuclear Plants Will Seek Relicensing**

The Nuclear Energy Institute’s Senior Vice President and Chief Nuclear Officer, Ralph Beedle, was recently quoted in the trade press as saying that most, if not all, nuclear reactors will apply for license extensions in the coming years. Beedle’s comments were based on news reports that the nuclear industry generated electricity more efficiently and safely in 2000 than in any previous year.

Similarly, recent news reports indicate that nuclear power plants are selling for about 17 times higher than the prices two years ago. The trend is at least partially accounted for by increased plant efficiency and growing national energy supply problems.

Offering words of support, Vice President Dick Cheney—head of the Bush administration’s energy policy development team—recently made public comments on the environmental benefits of nuclear power. In addition, the U.S. Nuclear Regulatory Commission has announced a new initiative to process applications for new plant sites.

### **Report Finds Disposal Costs are Hindering Medical Research**

The National Academy of Sciences’ National Research Council recently released a report finding that low-level radioactive waste disposal costs are a major problem for biomedical researchers who use radioactive materials. The report, which is titled *The Impact of Low-Level Radioactive Waste Management Policy on Biomedical Research in the United States*, was commissioned by the National Institutes of Health.

The report offers several avenues to deal with escalating disposal costs. For instance, it urges researchers to assess their low-level radioactive waste management practices for cost effectiveness and to look for appropriate alternatives to the use of radioactive materials. In addition, it suggests that waste management regulations be simplified in a manner that does not compromise worker or public health and safety.

Copies of the report may be obtained on line at [www.nap.edu/catalog/10064.html?onpi\\_listserv020901](http://www.nap.edu/catalog/10064.html?onpi_listserv020901).

## Domenici Bill to Expand Nuclear Generation Research

Senator Pete Domenici (R-NM) recently introduced legislation which would, among other things, provide more than \$400 million to expand nuclear generation research and which would prohibit the federal government from discriminating against the use of nuclear energy. In addition, the bill—which is known as the Nuclear Energy Electricity Assurance Act—supports the development of a new generation of nuclear reactors, the simplification of plant licensing, and the continued study of issues related to fuel recycling and waste management activities.

The bill also grants DOE \$15 million to test an NRC-conducted “early site permit process” to identify pre-approved sites and provides millions of dollars to DOE for research and development of nuclear-related technology. Other provisions of the bill simplify the NRC process for amending or transferring a plant license and provide NRC with funds to develop regulatory frameworks for new reactor designs.

## Staff Named to Energy Committee

Billy Tauzin (R-LA), Chair of the Energy and Commerce Committee of the U.S. House of Representatives, recently announced the appointment of Sean Cunningham as energy counsel to the full committee. Cunningham, a former aide to House Majority Leader Dick Armey (R-TX), recently worked as an associate at the law firm of Balch and Bingham. In addition, Cunningham previously served as counsel to the National Economic Growth, Natural Resources, and Regulatory Affairs Subcommittee of the House Government Reform and Oversight Committee.

## Murkowski Bill Contains Spent Fuel Provisions

On February 26, U.S. Senators Frank Murkowski (R-AK) and John Breaux (D-LA) introduced a 300-page omnibus energy bill which, among other things, creates a new DOE Office of Spent Nuclear Fuel Research to investigate technologies for treatment, recycling, and disposal of spent fuel and high-level radioactive waste. The bill, titled the National Energy Security Act, addresses a variety of energy problems—though its main focus is on petroleum and coal issues. Nonetheless, a number of issues pertaining to nuclear waste and remediation are addressed in the bill including

- a requirement that each federal agency report to Congress on a regular basis as to regulatory barriers to market entry for energy-efficient technologies and steps being taken to remove such barriers;
- a provision requiring the Chair of the U.S. Nuclear Regulatory Commission to report to Congress within six months on the state of the nuclear industry, the potential for increased generation and production, and the implementation of improvements in the licensing process;
- a section extending the Price Anderson Act amendments for another 10 years to compensate the public in the event of an accident at a commercial or DOE facility;
- the provision of various monetary grants to fund DOE activities on nuclear issues; and
- a section allowing utilities to take tax deductions for the cost of temporary spent fuel storage and for amounts paid into a decommissioning fund.

*Entergy Arkansas v. State of Nebraska*

## **Eighth Circuit Refuses to Dismiss Central Commission Case Against Nebraska** Holds Qualified Immunity Applies to Some Claims by Private Parties

On March 8, the U.S. Court of Appeals for the Eighth Circuit issued a decision in a case that challenges actions by the State of Nebraska in its review of US Ecology's license application for a low-level radioactive waste disposal facility in Boyd County. In so doing, the appellate court affirmed the district court's determination that Nebraska waived its Eleventh Amendment sovereign immunity under the compact and that the Central Commission has not failed to state a claim upon which relief can be granted. The court reversed, however, the district court's rulings with regard to good faith claims set forth by private parties—US Ecology and the generators. In particular, the appellate court found that the district court erred in denying qualified immunity to state officials on the private parties' good faith claims and in denying Nebraska's motion to dismiss those good faith claims for failure to state a claim upon which relief can be granted. The appellate court remanded back to the district court the issue of whether or not state officials are entitled to qualified immunity on the procedural and substantive due process claims set forth by the generators and US Ecology, finding that the issue was not properly considered by the lower court.

### **Background**

The case was filed in late December 1998, nine days after Nebraska regulators announced their decision to deny US Ecology's license application to construct and operate a low-level radioactive waste disposal facility in Boyd County. (See *LLW Notes*, January/February 1999, p. 8.) The plaintiffs, five regional utilities, argued that Nebraska regulators

had violated the compact, state, and federal law—as well as a statutory and contractual obligation to exercise “good faith”—in their review of the license application. (See *LLW Notes*, January/February 1999, pp. 16–17.)

**The Parties** The utilities pursuing claims included Entergy Arkansas, Inc.; Entergy Gulf States, Inc.; Entergy Louisiana, Inc.; Wolf Creek Nuclear Operating Corporation; and Omaha Public Power District. US Ecology subsequently joined the action as a plaintiff.

The Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services Regulation and Licensure (HHSR&L) were named as defendants to the action, as were several of the departments' employees. The Central Interstate Low-Level Radioactive Waste Commission was originally named as a defendant in the suit, due to its nature as a necessary party, but subsequently realigned itself as a plaintiff.

**Plaintiffs' Claims** The plaintiffs claim that US Ecology's license application was denied on improper grounds and that the entire license review process was tainted by bias on the part of Nebraska and by the improper involvement of HHSR&L. They assert that the state's bad faith is evidenced by, among other things, improper delays and impediments, the state's refusal to adopt adequate budgets or schedules, and the filing of repeated litigation against the project. They also challenge the constitutionality of the procedures employed in making a licensing decision, and they allege various



### ***Entergy Arkansas v. State of Nebraska*** ***continued***

related statutory and constitutional violations. (For a detailed explanation of the claims put forth by the plaintiffs in their complaints, see *LLW Notes*, January/February 1999, pp. 16–17.)

**Defendants' Responses** The State of Nebraska argues that the actions by both the Central Commission and the private parties (US Ecology and the generators) must be dismissed because the state and its agencies are entitled to Eleventh Amendment sovereign immunity and because the plaintiffs failed to state a claim upon which relief may be granted. Moreover, the state officials named in the actions assert that they are entitled to qualified immunity in regard to the plaintiffs claims. Qualified immunity shields from liability state officials that perform discretionary functions if “their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”

*For a detailed explanation of the district court's analysis of these arguments and its order, see LLW Notes, October 1999, pp. 15–19.*

### **The Appellate Court's Order**

**Are the Commission's Claims Barred by the Eleventh Amendment?** In its decision, the appellate court reaffirmed its earlier holding “that by entering into the Compact, Nebraska waived its immunity from suit in federal court by the Commission to enforce its contractual obligations.” The court rejected Nebraska's argument that the Commission may only seek future performance, not damages or an accounting for past breaches, because it is not a party to the compact. The court ruled as follows:

"In the Compact which Nebraska entered, the

party states chose to delegate the authority to the Commission to initiate 'any proceedings . . . before any court of law,' which includes suits for breach of the Compact. The States not only allowed the Commission to initiate proceedings, but mandated that the Commission '[r]equire all party states and other persons to perform their duties and obligations arising under this compact.' A Compact between states is 'after all a contract . . . It remains a legal document that must be construed and applied in accordance with its terms . . . There is nothing in the nature of compacts generally . . . that counsels against rectifying a failure to perform in the past as well as ordering future performance called for by the Compact.' This court has already held that 'revocation or suspension of a state's membership is [not] the exclusive enforcement mechanism' under the Compact. By entering into a compact in which the party states delegated to the Commission their authority to enforce contractual obligations, Nebraska waived its Eleventh Amendment immunity from suit by the Commission in federal court." (citations omitted)

**Did the Commission State a Claim Upon Which Relief Can be Granted?** Nebraska argued that the Central Commission failed to state a claim upon which relief can be granted because it is not a party to the compact and the compact does not provide for damages. The court disagreed, holding that the commission has the right to sue for the requested relief under the compact.

**Does Qualified Immunity Bar the Good Faith Claims of the Private Parties Against State Officials?** Nebraska argued that the private parties—US Ecology and the generators—have not alleged violations of federal law because they are not entitled to enforce the good faith provision in the compact and they do not have a constitutionally

*Continued on page 19*

*In the Matter of U.S. Air Force Institute for Environmental, Safety and Occupational Health Risk Analysis, Radioactive and Mixed Waste Office, and U.S. Air Force Center for Environmental Excellence*

# Rocky Mountain Board Files Enforcement Action Against U.S. Air Force

On April 23, 2001, the Rocky Mountain Low-Level Radioactive Waste Board will hold a hearing in Denver, Colorado to determine the merits of an enforcement action the Executive Director had previously filed against two divisions of the U.S. Air Force. The Board claims that the respondents unlawfully exported low-level radioactive waste which was generated within the region outside of the region without prior Board authorization in violation of Article VII(b) of the Rocky Mountain Compact. The respondents, however, assert several general defenses to the Board's claims, including that the Board has no jurisdiction over the matter.

## The Complaint

**Filing** The Rocky Mountain Board originally filed its complaint on August 25, 2000. The following parties are named as defendants in the action: the Radioactive and Mixed Waste Office of the U.S. Air Force Institute for Environmental, Safety and Occupational Health Risk Analysis (USAF-RMWO) and the U.S. Air Force Center for Environmental Excellence (USAF-AFCEE).

**Alleged Facts** Article VII(b) of the Rocky Mountain Compact provides that it is unlawful for any person to export low-level radioactive waste from the region unless authorized to do so by the Board. According to the Board's complaint, however, on three separate occasions during the months of March and April 1998, USAF-RMWO exported a total of approximately 6.0 cubic feet of low-level

radioactive waste from Air Force facilities in Colorado and New Mexico to the State of Ohio, without first obtaining Board authorization. The Board alleges that on a fourth occasion in June 2000, USAF-RMWO, Thomas Gray & Associates, and Environmental Chemical Corporation exported approximately 0.13 cubic feet of low-level radioactive waste from the U.S. Air Force Academy in the State of Colorado to the State of California, without prior Board authorization. In addition, during the month of January 1999, the Board alleges that USAF-AFCEE exported approximately 2,204 cubic feet of radioactively contaminated soil and debris (which constitutes low-level radioactive waste) from the Kirkland Air Force Base in New Mexico to the State of Utah, without obtaining prior Board authorization.

**Issues** Such actions, according to the complaint, violate Article VII(b) of the Rocky Mountain Compact. In support of its claim, the Rocky Mountain Board points to a May 1994 settlement agreement in a prior Board enforcement proceeding in which the Department of Defense (DoD) Executive Agent (the U.S. Department of the Army) expressly agreed, for future shipments, to properly obtain Board authorization for low-level radioactive waste shipments from the region prior to export. The Board asserts in its complaint that the USAF respondents are components of DoD.

**Requested Relief** In its enforcement action, the Board points to the terms of Article VII(e) of the compact which provides that violators of

Article VII(b) shall be liable to the Board for a civil penalty not to exceed ten times the charges which would have been charged for disposal of the waste at a regional facility. Accordingly, the Board is seeking a civil penalty not to exceed \$174,380.00 for the allegedly improper export of said waste.

### **The Answer**

**General Defenses** In its answer, USAF-RMWO and USAF-AFCEE offer the following general defenses to the Board's complaint:

- the complaint fails to state a claim upon which relief can be granted;
- the Board is without jurisdiction to regulate the exportation of U.S. Air Force waste from the Rocky Mountain Compact region;
- the Board is without jurisdiction to fine the U.S. Air Force; and
- the U.S. Army, as the DoD Executive Agent for the disposal of low-level radioactive waste, does not have the authority to bind the U.S. Air Force to submit regulation of its low-level radioactive waste exports to the Rocky Mountain Compact.

**Specific Responses** The Air Force respondents specifically deny the Rocky Mountain Board's assertion of jurisdiction over the management, disposal and exportation of federal government waste which is disposed of outside of the compact region. Moreover, they deny that the approximately 6.13 cubic feet of radioactive material exported by USAF-RMWO constitute waste, noting that the materials were shipped for recycling.

**Requested Relief** In its answer, the Air Force defendants request that the complaint be dismissed and that the Board be denied any relief whatsoever.

### **Related Action**

The issue of state and compact authority over the exportation and/or disposal of Department of Defense low-level radioactive waste was discussed at the recent meeting of the LLW Forum, Inc. in Point Clear, Alabama. At the end of the discussion, the Board of Directors of the LLW Forum, Inc. passed a resolution to request a meeting with the Acting Deputy Undersecretary of Defense (Environmental Security). (See related story, this issue.)

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### ***Entergy Arkansas v. State of Nebraska*** *continued from page 17*

protected interest and therefore lack due process rights. The generators and US Ecology asserted that, as intended beneficiaries, they can enforce the good faith provision of the compact and their due process rights have been violated. The private parties cite the payment of over \$80 million in costs as their protected property interest. In reviewing the arguments, the court noted that the good faith provision of the compact, Article III(f) gives each member state the right to rely on "the good faith performance of each other," but does not name any other parties. Accordingly, the court held as follows:

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### ***Entergy Arkansas v. State of Nebraska*** *continued from page 19*

"Article III(f) expressly limits to whom good faith is owed, and the Generators and USE are not included and would be at most incidental beneficiaries. Since these parties are unable to establish that Article III(f) provides them with a federal statutory right, the individual state officials could not have violated any clearly established law under it and they are entitled to qualified immunity on these claims. Their inability to enforce the good faith provision also means that they have failed to state a claim upon which relief can be granted in respect to the claims they have asserted under the Compact." (citations omitted)

**Does Qualified Immunity Apply to the Procedural and Substantive Due Process Claims of the Private Parties Against State Officials?** Nebraska argued that its officials are entitled to qualified immunity on the procedural and substantive due process claims of the private parties because there is no constitutionally protected property interest and, even if there were, the administrative contested case proceeding would address this. The private parties disagreed, outlining a host of allegedly violative actions, naming claimed property interests and asserting that the contested case proceeding will not rectify the identified problems. In response, the appellate court found that the district court failed to adequately address whether the private parties have a protected property interest or a claim of denial of fundamental procedural fairness or substantive due process. Accordingly, the court found that it lacks jurisdiction over these issues and remanded them to the district court for analysis and decision.

**To get a copy of the court's decision on line, please go to**

<http://www.ca8.uscourts.gov/opndir/01/03/994263P.pdf>.

### **Russian Court to Consider Referendum re Waste Importation**

Recent press accounts indicate that the Russian Supreme Court has agreed to review the government's refusal to call a nationwide referendum on legislation that would allow spent fuel and other radioactive waste to be imported for disposal. Under Russian law, the President must call a referendum on an issue if more than 2 million signatures are collected. Greenpeace and seven Russian environmental groups claim to have collected 2.5 million signatures in support of the referendum. However, government election committees invalidated approximately 600,000 signatures. Greenpeace argues that at least 300,000 of the disputed signatures were improperly invalidated.

The controversial legislation would change current Russian laws barring the importation of radioactive waste into Russia, thereby allowing the Russian Ministry of Atomic Energy to pursue billions of dollars worth of contracts for the disposal of spent fuel from a variety of countries including, among others, Japan, Taiwan, Switzerland, Germany, Spain, Korea and China. The U.S. government has remained officially neutral on the issue.

## *U.S. Nuclear Regulatory Commission*

### **NRC Answers Texas Inquiry re Assured Isolation**

On March 30, Paul Lohaus—Director of the U.S. Nuclear Regulatory Commission’s Office of State and Tribal Programs—responded to a letter from Richard Ratliff—Chief of the Texas Department of Health’s Bureau of Radiation Control—concerning the licensing of an assured isolation facility. Ratliff had forwarded to NRC a letter from Warren Chisum (R)—Chair of the Texas House Committee on Environmental Regulation—which states, “What requirements would be necessary, in addition to Part 61, to establish an assured isolation facility in Texas.” Overall, NRC responded to Chisum’s inquiry as follows:

"The Commission’s policy . . . has been, and continues to be, that low-level radioactive waste (LLW) should be disposed of safely as soon as possible after it is generated. Thus, the Commission strongly supports State and compact efforts to develop new LLW disposal capacity in accordance with the Low-Level Radioactive Waste Policy Amendments Act of 1985. However, in view of the many complex waste disposal issues currently facing this Nation, the Commission is open to serious consideration of any feasible and safe proposals."

#### **Differences Between An Assured Isolation Facility and Disposal Facility**

While NRC notes in its response that an assured isolation facility shares many of the same characteristics and features of a modern disposal facility—including concrete buildings and overpacks, an above-ground design, and extensive monitoring and maintenance—NRC identifies the following important differences between traditional disposal and the assured isolation

concept as first proposed:

- an assured isolation facility is intended initially to be a storage facility, although conversion to a disposal facility is preserved as an option;
- whereas a traditional disposal facility relies on site features to isolate the waste, an assured isolation facility relies on engineered barriers, institutional controls, and long-term monitoring—controls that are limited by Part 61 requirements to 100 years after facility closure; and
- the assured isolation concept takes into account the possibility that the waste will eventually be removed and disposed elsewhere, while traditional disposal is intended to be permanent and does not envision retrievability.

Accordingly, NRC’s letter states that “[a]lthough similar to or nearly identical to a disposal facility in design, suitable licensing criteria for . . . [an assured isolation] facility that protect public health and safety and the environment have not been defined.” NRC’s analysis is based on the assured isolation concept as originally proposed and not on the definition being considered under Texas statute.

#### **Regulatory Approaches**

In its response, NRC offers the following three different approaches for licensing an assured isolation facility.

**Storage Under 10 CFR Parts 30, 40 & 70** NRC states that it “believes that Texas has the authority to license an assured isolation facility for storage of

# Federal Agencies and Committees *continued*

## ***U.S. NRC continued***

LLW in renewable terms and to defer a decision on its ultimate disposition to the future.” NRC finds that the initial licensing of such a facility for the possession and storage of low-level radioactive waste under state regulations that are equivalent to 10 CFR Parts 30, 40 and 70 “is relatively straightforward from a public health and safety point of view, with the exception of issues associated with financial assurance for ultimate disposal and whether (and when) the facility would be considered permanent disposal.” NRC identified the following issues that Texas would need to address in the licensing process:

- funding for waste removal and disposal if the facility were not eventually converted;
- whether an assured isolation facility meets the terms and conditions of the Texas Compact; and
- how current regulatory limits on the possession of special nuclear material (SNM) might apply to such a facility.

In regard to the third issue, NRC notes that an NRC license may be required to possess SNM in a Texas-licensed facility and that this could be “an added complication.” NRC encourages Texas, if the state were to choose this approach, to coordinate resolution of issues with NRC.

**Disposal Under 10 CFR Part 61** NRC also finds that Texas can license an assured isolation facility under state regulations equivalent to Part 61, although there may be SNM implications in so doing. The licensing approach for such a facility would depend, according to NRC, on the design used.

### ***Near Surface Disposal***

If the design accounted for the eventual covering of the facility with earth, it would be considered a near-

surface disposal facility. NRC notes that such a facility “would be subject to the general performance objectives in 10 CFR Part 61, Subpart C, and to the detailed technical requirements that are contained in 10 CFR Part 61, Subpart D for near-surface disposal.” NRC further states that the Commission does “not believe that any additional requirements from a safety perspective would be needed for such a facility,” although NRC suggests that Texas may, at its discretion, mandate an institutional control period longer than 100 years and/or additional contingency funds for removal and disposal of the waste elsewhere. NRC’s letter directs Texas’ attention to prior plans of the Commonwealth of Pennsylvania to develop such a facility.

### ***Above Ground Disposal***

If the design did not account for the eventual covering of the facility with earth, it would be considered an above-ground disposal facility. While covered by Part 61, NRC states that there are no detailed requirements for such a design in the Commission’s regulations. Instead, NRC likens this concept to the entombment of low-level radioactive waste from nuclear power reactors after closure. NRC notes that the Commission is currently investigating whether a rulemaking is necessary or desirable for entombment. In addition, NRC points out that in 1993, when the Commission amended Part 61 to cover above-ground facilities, it noted that detailed technical criteria for such a facility needs to be developed. NRC has no plans to do so at this time. However, NRC stated in its letter that it would be willing to assist Texas or some other organization in promulgating such criteria. NRC notes that the lack of specificity in its regulations “would provide some flexibility for the State in terms of what the criteria might be.”

*For additional information, please contact James Kennedy of NRC at (301) 415-6668.*

# Obtaining Publications

## To Obtain Federal Government Information

### by telephone

- DOE Public Affairs/Press Office. . . . . (202) 586-5806
- DOE Distribution Center . . . . . (202) 586-9642
- DOE's National Low-Level Waste Management Program Document Center . . . . . (208) 526-6927
- EPA Information Resources Center . . . . . (202) 260-5922
- GAO Document Room . . . . . (202) 512-6000
- Government Printing Office (to order entire Federal Register notices) . . . . . (202) 512-1800
- NRC Public Document Room . . . . . (202) 634-3273
- Legislative Resource Center (to order U.S. House of Representatives documents) . . . . . (202) 226-5200
- U.S. Senate Document Room . . . . . (202) 224-7860

### by internet

- NRC Reference Library (NRC regulations, technical reports, information digests, and regulatory guides). . . . . [www.nrc.gov/NRC/reference](http://www.nrc.gov/NRC/reference)
- EPA Listserve Network • Contact Lockheed Martin EPA Technical Support at (800) 334-2405 or e-mail (leave subject blank and type help in body of message). . . . . [listserv@unixmail.rtpnc.epa.gov](mailto:listserv@unixmail.rtpnc.epa.gov)
- EPA • (for program information, publications, laws and regulations) . . . . . <http://www.epa.gov/>
- U.S. Government Printing Office (GPO) (for the Congressional Record, Federal Register, congressional bills and other documents, and access to more than 70 government databases).. . . . . [www.access.gpo.gov](http://www.access.gpo.gov)
- GAO homepage (access to reports and testimony) . . . . . [www.gao.gov](http://www.gao.gov)

**To access a variety of documents through numerous links, visit the web site for the LLW Forum, Inc. at [www.llwforum.org](http://www.llwforum.org)**

### Accessing LLW Forum, Inc. Documents on the Web

*LLW Notes, LLW Forum Meeting Reports 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 LLW Forum Meeting Reports are also available on the LLW Forum web site at [www.llwforum.org](http://www.llwforum.org). The Summary Report and accompanying Development Chart, as well as LLW Forum News Flashes, 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. U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000.

# Low-Level Radioactive Waste Disposal Compact Membership



## Appalachian Compact

Delaware  
Maryland  
Pennsylvania \*  
West Virginia

## Atlantic Compact

Connecticut  
New Jersey  
South Carolina •

## Central Compact

Arkansas  
Kansas  
Louisiana  
Nebraska \*  
Oklahoma

## Central Midwest Compact

Illinois \*  
Kentucky

## Northwest Compact

Alaska  
Hawaii  
Idaho  
Montana  
Oregon  
Utah  
Washington \*  
Wyoming

## Midwest Compact

Indiana  
Iowa  
Minnesota  
Missouri  
Ohio  
Wisconsin

## Rocky Mountain Compact

Colorado  
Nevada  
New Mexico

*Northwest accepts Rocky Mountain waste as agreed between compacts*

## Southeast Compact

Alabama  
Florida  
Georgia  
Mississippi  
Tennessee  
Virginia

## Southwestern Compact

Arizona  
California \*  
North Dakota  
South Dakota

## Texas Compact

Maine  
Texas \*  
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