

SOUTHEAST COMPACT COMMISSION POLICY STATEMENT

Management of Low-Level Radioactive Waste

June 27, 2008

The Southeast Interstate Low-Level Radioactive Waste Management Compact was enacted by its party states in 1983 and ratified by Congress in 1985. Party states currently include Alabama, Florida, Georgia, Mississippi, Tennessee, and Virginia.

The mission of the Southeast Interstate Low-Level Radioactive Waste Management Commission (Southeast Compact Commission) is to ensure that adequate, reliable, and appropriate services are available, now and in the foreseeable future, such that low-level radioactive waste generated in the Southeast Region can be safely managed in an efficient, equitable, economical, and environmentally responsible manner in order that each party state may meet its responsibility for providing for the availability of capacity either within or outside the State for disposal of low-level radioactive waste generated within its borders (Article 1, PL 99-240).

The Commission believes that it has successfully fulfilled its mission since 1983. Its efforts to site a new disposal facility in North Carolina were thwarted in 1997 when North Carolina refused to honor its commitment to build a regional disposal facility. Nonetheless, through inter-regional cooperation, the Commission has provided for access to licensed waste management services for waste generators in the Southeast on an almost continuous basis for twenty-five years, while balancing issues of political equity and cost.

Generators in the Southeast Compact states currently ship waste to processing and disposal facilities without export restrictions. The majority of the region's waste by volume is Class A waste, most of which is disposed at a facility in Clive, Utah. A much smaller portion of the region's waste is Class B and Class C waste, which is disposed in Barnwell, South Carolina. This waste will not be accepted in South Carolina beginning July 1, 2008.

The Southeast Compact Commission believes that permanent disposal of low-level radioactive waste is preferable. While the United States General Accountability Office maintains that there is no health or safety crisis posed in the near term by the lack of access to disposal for Class B & C waste after June 2008,¹ the full impact on health, safety, and economics remains to be seen. There is no crisis now; but states, compacts, and the federal government should closely monitor the situation to avoid a crisis in the future.

The Commission cautions that decisions to alter the way low-level radioactive waste is managed in the United States should be made in the light of full understanding of all the factors, including political and economic realities.

¹ GAO-04-604, a report to the Chairman, Committee on Energy and Natural Resources, U.S. Senate, June 2004.

The Commission firmly maintains that any effort to improve access to low-level radioactive waste management facilities must support and uphold the rights of the Northwest Compact, the Rocky Mountain Compact, the Atlantic Compact, the Texas Compact, and all other interstate compacts to control the flow of waste into waste processing or disposal facilities within their borders. Threats to these controls, such as the suggestion that the LLW Policy Act should be amended or replaced, run the risk of impeding the continued operation of the existing processing and disposal facilities or leading to the actual closure of the facilities.² Such a threat is what led to the development of the current compact system.

Adequate mechanisms exist for compacts with facilities to voluntarily accept waste from additional states/compacts. We maintain that voluntary acceptance has been, and will continue to be, critical to a lasting solution to this issue. Just as it has done successfully in the past, this Commission will continue its efforts in voluntary cooperation with other states and compacts to facilitate access to all low-level radioactive waste management services and to minimize the cost of these services.

Proponents of Congressional action to make Department of Energy disposal sites available for the disposal of commercial waste or to allow commercial entities to site disposal capacity on federal land must consider that all DOE sites are located in states. Such an effort should therefore be expected to meet the same local and statewide political opposition faced by states and compacts that attempted to site facilities in the 1980's and 1990's. One could actually expect that opposition to be compounded by the existing public opposition and conflicts associated with the existing DOE sites.³ Further, one could argue that the federal government is no better equipped to deal with public opposition than are state governments. In the case of the siting efforts in the Southwestern compact, it was the Federal government -- not the state of California or the public of California -- that ended the siting of a disposal facility on federal land.

Acceptance of commercial waste at DOE disposal sites would also require a new regulatory framework. The DOE facilities were not sited under 10 CFR Part 61⁴ and did not go through the

² The State of Washington serves as the host state of the Northwest Compact and, by contract, accepts low-level waste from the three member states of the Rocky Mountain Compact. Washington has always been willing to do its fair share but does not want to be put in the position of again having to accept waste from states throughout the nation. To ensure that this does not occur, the sublease with the site operator contains a clause allowing the state to terminate the sublease should compacts lose the exclusionary authority provided by federal law (statement by Mike Garner, Executive Director, Northwest Compact Committee, March 25, 2005).

³ In Washington State, a law was enacted by public referendum in 2004 that prohibits disposal of more Department of Energy waste at radioactive mixed waste sites until all on-site waste is treated, stored or disposed in compliance with all state and federal environmental laws.

⁴ Title 10, Chapter I of the Code of Federal Regulations are the NRC regulations binding all persons and organizations who receive a license from NRC to use nuclear materials or operate nuclear facilities. Part 61 of Chapter I is that part of the NRC regulations that sets forth the standards for issuing a license for a commercial LLW disposal facility. Agreement States generally have compatible regulations for licensing a LLW disposal facility.

stringent siting requirements required by 10 CFR Part 61. These sites were not licensed and are not regulated by the NRC nor the states.

Moreover, we suggest that proponents of establishing new facilities for low-level radioactive waste disposal should more closely examine the economic factors. It is economics--not the existence of interstate compacts--that makes development of additional disposal sites unattractive to commercial companies. In actuality, siting new facilities could drastically increase the cost of disposal. The cost of licensing and construction of a new disposal site is estimated to be at least \$100 million. At today's disposal volumes, even if all the Class A, B and C wastes from the 36 non-sited states were disposed at the new facility, it would not be possible to recover the development costs unless fees were considerably higher and/or the federal government subsidized the cost. Without the prospect of cost recovery in the near term and significant profit in the foreseeable future, no commercial company will be interested in siting a facility.

It is noted that the current trend in declining disposal volumes and continued efforts in waste minimization will further impact the economics of disposal for Class B and Class C waste. In addition, if the efforts of the NRC, EPA, and others are successful to allow exemption of waste streams from disposal requirements and to allow disposal of certain waste streams at facilities for hazardous or solid waste, this will further impact the economic viability of facilities managing low-level radioactive waste. We urge decision makers to thoroughly study the potential impacts to waste brokers, waste processors, and low-level radioactive waste disposal facilities before proceeding with regulatory changes.

The Commission applauds individuals and organizations in the United States who are bringing the issue of low-level radioactive waste management into the light of public debate. Certainty in waste management is needed and desirable. Whereas the current national policy provides the greatest certainty at the present time, the Commission is open to any option, including options that would disband compacts, if such options hold a better promise for providing a reliable, permanent solution for managing the waste of our region and the nation in a safe and cost-effective manner.