



UNITED STATES  
RULES AND REGULATIONS  
**NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

2009 DEC -4 PM 1:36

RECEIVED

74 FR 39716

8/7/09

⑥

## Shaffner, James

---

**From:** Llwwforuminc@aol.com  
**Sent:** Tuesday, October 13, 2009 12:04 PM  
**To:** Shaffner, James; Bubar, Patrice  
**Cc:** Camper, Larry; Suber, Gregory; Kennedy, James  
**Subject:** Meeting re Impact of Lack of Disposal Access on Medical and Academic Community  
**Attachments:** Letteronwasteattribution.pdf; LettertoNRC20090422NEWBERRY.pdf; NRCfollowupletterreLLRWbfrfg409.pdf; SECompactLetter61109Lovinger.pdf; ForumPolicyAmended10-18-06FINALFORPUBLICATION.doc

Jim and Patti:

Thank you for the opportunity to observe last week's meeting on the impact of the lack of disposal access for Class B and C waste on the medical and academic communities. I found the meeting to be interesting and informative and enjoyed hearing different perspectives on this important issue.

I did want to provide a few observations on some of the discussion points and issues that were raised. In doing so, however, I want to be clear that I am providing this feedback individually as an attendee and observer and not in my capacity as the Executive Director of the LLW Forum. Accordingly, my observations should not be taken as an official position of the LLW Forum and are not being submitted on behalf of the organization.

- Compact Exclusionary Authority: Several speakers referenced compact exclusionary authority in their remarks and offered perspectives on the impact of such authority on disposal access and economics. In considering the issue, I would urge NRC to take into account that US Ecology's lease for the Richland facility includes a provision which provides that the lease may be terminated if the compact were to lose its exclusionary authority. Officials in the State of South Carolina are also on record as stating that they would likely close the Barnwell facility if they were to lose their ability to exclude out-of-compact waste.
- Economics: The major concern among the academic and medical community appears to be the cost of disposal and the desire to find cheaper alternatives. However, I would note that disposal facilities are expensive to operate due to, among other things, intense regulatory controls and public scrutiny. Providing cheaper alternatives for certain waste streams will therefore likely require higher disposal costs for other waste streams in order to make these facilities economically viable. This is an issue with which the Atlantic Compact has struggled given the Barnwell facility's diminishing waste volumes. The State of Texas decision to allow Waste Control Specialists to develop a federal facility in conjunction with the compact facility to address concerns about economic viability is also instructive here.
- Alternatives: There was also significant discussion regarding the need for "free" or "open market" competition and the potential use of DOE facilities for the disposal of commercial B and C waste. In regard to the first issue, I would point out that Texas underwent a "free market," competitive siting process ... yet, they only received the one license application from Waste Control Specialists. In regard to the latter issue, I would note that DOE facilities are located in states, that the department has trouble sending its own waste to these facilities due to state/public concerns and opposition, and that DOE often finds it more cost-effective to send federal waste to commercial facilities than to the department's own disposal sites. DOE officials have repeatedly raised this caution at various meetings and venues around the country. It is also important to remember that it is the compact system's control over waste flow that has allowed the existing sites to remain open and for new sites to be developed. It is extremely unlikely that a state will license a disposal facility or allow one to be developed without the ability to prevent becoming the nation's and the world's dumping ground.
- Waste Attribution: One speaker provided commentary on the use of incinerators and alleged restrictions thereon due to concerns over waste attribution. As noted during the meeting, the LLW Forum recently held a scoping session on waste attribution issues at our fall meeting in Park City, Utah. There are numerous perspectives and concerns which were brought to light during this scoping session and it is my understanding that some of the information provided at yesterday's meeting concerning alleged restrictions on the use of processing technologies was not factually accurate. In particular, neither the Low-Level Radioactive Waste Policy Act nor the actions of states and compacts act as a hindrance to the use of treatment and processing facilities. Indeed, quite the opposite is the case. The compacts entered into interstate agreements and policies allowing LLW to flow freely across compact boundaries for treatment. In addition, the LLW Forum and the Southeast Compact worked together to develop and make available free-of-charge to all interested stakeholders the National Directory of Brokers and Processors. The directory is an important tool which assists individual generators in locating appropriate treatment and processing capabilities. Moreover, the Northwest Compact/State of

SUNSI Review Complete

Template = Aom-013

1

E-RIPS = Aom-03

Adj: J. Shaffner (JAS11)

Washington did not impose a moratorium on the use of the Bear Creek facility. Instead, it is my understanding, they have worked out an arrangement with the facility operator to hold waste from generators within the compact region until enough is accumulated for a dedicated run, with any resultant waste then being forwarded on to the Richland facility for disposal. I would encourage NRC staff to communicate with affected states and compacts on this issue including, among others, the Atlantic Compact/State of South Carolina, Northwest Compact/State of Washington, Southeast Compact/State of Tennessee and Texas Compact/State of Texas.

I have attached the LLW Forum's Discussion of Issues Statement for your reference and consideration, as it addresses many of the issues discussed at the meeting and raised above. I have also attached individual letters from the LLW Forum, Southeast Compact and South Carolina on the waste attribution issue, as these may help agency staff to flush out some of the associated issues and concerns.

As a final comment or suggestion, I would observe that one productive step on this issue could be for organizations representing the academic and medical community to take the initiative to provide greater information exchange and coordination within their respective fields. In particular, there does not seem to be a mechanism by which individual generators within these communities can come together to coordinate prospective solutions, which may assist with their economic and storage concerns. Equally significant, there does not appear to be a mechanism within these communities to highlight or inform one another about successful alternatives ... be it the use of alternative methodologies, shorter-lived radionuclides or other prospective mitigating techniques. NEI and EPRI serve as an excellent resource in this regard for the nuclear utilities, as does the LLW Forum for the states and compacts. It would appear that the successes and benefits of these organizations could serve as a model for the development of a similar tool within the academic and medical communities.

I appreciate your consideration of my thoughts and perspectives. If you have questions or require additional information, please feel free to contact me at (202) 265-7990 or at [llwforuminc@aol.com](mailto:llwforuminc@aol.com).

Thank you.

Sincerely,

Todd D. Lovinger, Esq.