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Very Low-Level Radioactive Waste Scoping Study

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General Comment

The Texas Low-Level Radioactive Waste Disposal Compact Commission submits the attached comment letter in response to the Nuclear Regulatory Commission's request for comment in this docket.

Attachments

VLLW Comment Letter

**Texas Low-Level Radioactive Waste Disposal
Compact Commission**

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May 15, 2018

May Ma
Office of Administration
Mail Stop: OWFN-2-A13
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Docket ID NRC-2018-0026

Dear Ms. Ma,

The Rules Committee of the Texas Low-Level Radioactive Waste Disposal Compact Commission ("TLLRWDC") is pleased to provide comments on the Nuclear Regulatory Commission ("NRC") Very Low-Level Waste ("VLLW") scoping study published in the Federal Register on February 14, 2018. The TLLRWDC is a federal low-level waste compact created by the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, Pub. L. No. 105-236 (the "Texas Compact"), which includes the host state of Texas and the party state of Vermont. The State of Texas, through an arrangement with Waste Control Specialists LLC, operates and maintains a compact waste facility in Andrews County, Texas ("Compact Facility") for the disposal of Class A, Class B and Class C low-level radioactive waste generated in Texas and in Vermont.

The Compact allows for the import of Class A, Class B and Class C low-level radioactive waste from generators in the United States other than Texas and Vermont, provided that the import is authorized by the TLLRWDC. Import requests are reviewed by the TLLRWDC on a case-by-case basis to ensure that the import would not impinge on the Compact Facility's capacity needed by Texas and Vermont generators. To date, TLLRWDC has entered into over 150 import agreements to allow the disposal of low-level radioactive waste from hundreds of generators for thousands of sources. These generators include nuclear power plants, medical centers, universities

and high schools, state and federal agencies, as well as manufacturers. The Texas Compact Facility currently receives waste from generators in all 50 states, and is the only disposal facility available for generators in 36 states for the disposal of Class B and Class C low-level radioactive waste.

The TLLRWDCDC regards protection of the Compact Facility capacity for Texas and Vermont generators as its top priority. Further, the TLLRWDCDC feels strongly that the Compact Facility is a key asset not only for Texas and Vermont, but also nationally. Because the Compact Facility is one of only four waste disposal facilities in the country for low-level radioactive waste generators and the only facility for the disposal of B and C waste for generators in 36 states, the Compact Facility is critical for generators across the country. Because of the importance of this facility, the TLLRWDCDC sincerely hopes that the NRC does not take steps that, in any way, compromise the facility's viability through any action it takes as a result of the VLLW scoping study.

If the NRC establishes a formal regulatory definition of VLLW, it should consider relevant information from other regulatory bodies such as the International Atomic Energy Agency and the Environmental Protection Agency. The new definition should comport and comply with existing terms as defined by the Atomic Energy Act, the Low-Level Radioactive Waste Policy Amendments Act ("LLRWPA"), and existing NRC regulations. Moreover, the NRC should provide consistency in criteria for disposing of LLRW.

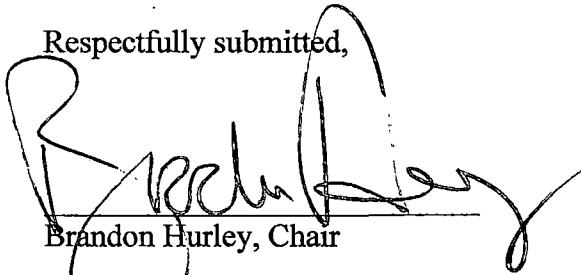
Further, any new definition of VLLW should be crafted within the current low-level waste classification system of Class A, Class B, Class C and Greater Than Class C. Otherwise, new programs to accommodate a waste stream outside of the framework provided in 10 CFR 61.55 would be required. In addition, the Texas Compact grants the TLLRWDCDC the authority to regulate low-level radioactive waste imported into the host state for disposal or management. If the NRC adopts a new definition of VLLW, it is possible that the new definition will conflict with the existing federal regulatory scheme governing disposal of low-level waste. The TLLRWDCDC is opposed to any new definition of VLLW that is inconsistent with federal law and diminishes the Commission's ability to regulate VLLW as part of the larger definition of low-level waste.

Assuming VLLW will not be removed from the larger definition of low-level waste, it is the TLLRWDCDC's view that, based on the language of the Texas Compact, any new waste category for VLLW within the current regulatory framework would fall within the regional compact authority established by the LLRWPA. The TLLRWDCDC has recently promulgated a rule to require importers of low-level waste into Texas that may include waste that could later be defined as VLLW to report such importation of waste in 31 Texas Administrative Code § 675.24 (Requirement to Report on the Importation of Certain Low-Level Radioactive Waste for Management or Disposal that is not Required to be Disposed of in the Compact Facility). Implementation of this rule ensures appropriate tracking of wastes from cradle to grave and provides reporting to regulators, industry, and the public. Therefore, in response to Question 5 of the VLLW scoping study comment request, any additional responsibilities or resource requirements would likely be minimal.

The United States currently has four low-level radioactive waste disposal facilities: the Barnwell facility in South Carolina, the WCS facility in Texas, the Richland facility in Washington, and the Clive facility in Utah. These facilities provide disposal for Class A, Class B and Class C low-level radioactive waste for all 50 states and the District of Columbia (with the Texas facility being the only disposal facility for B and C Waste for generators in 36 states). It is critically important that these facilities remain viable and operational to ensure that low-level radioactive waste, and in particular Class B and Class C waste, can be safely and permanently disposed. In developing a VLLW category, it is critical to understand and assess the economic repercussions to ensure that low-level waste disposal facilities remain financially viable.

The TLLRWDCC appreciates the opportunity to provide these comments and the NRC's consideration of stakeholder input in this important VLLW scoping study.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brandon Hurley", written over a horizontal line.

Brandon Hurley, Chair

Texas Low-Level Radioactive Waste Disposal
Compact Commission