

Testimony of
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Good morning Chairman Shimkus and members of the subcommittee. My name is Leigh Ing and I am the Executive Director of the Texas Low-Level Radioactive Waste Disposal Compact Commission. Thank you for inviting me to talk about low-level radioactive waste interstate compacts today. My testimony is for informational purposes to provide a better understanding of how the low-level radioactive waste compact system was set up, how it is structured today and how compacts work together and with states to support disposal of low-level radioactive waste.

To begin, I will provide a brief overview of interstate compacts and more specifically low-level waste compacts. Speaking generally, a compact finds its origin in federal or state law that authorizes a contract between two or more states to address a particular policy matter, adopt standards and set a basis for cooperation on national or regional matters. Examples of compacts include river compacts which are formed by states which share the river and function generally for the purposes of managing the quality and quantity of the river as it exits one state and enters another. Low-level radioactive waste compacts are authorized by federal law and formed between states in which one state is designated as the host state that will develop and manage a facility for the disposal of low-level radioactive waste. The remaining states in the compact, the party states, have guaranteed access to that site for disposal of the low-level waste generated in their state.

Low-level radioactive waste is generated by a number of activities including medical research, nuclear medicine, industrial gauging, and electricity generation. The Nuclear Regulatory Commission has chosen to classify low-level radioactive waste into three classes based on concentration, half-life and radionuclide type. Class A has the lowest concentrations and shortest half-lives; Class B and Class C

contain greater concentrations and longer half-lives. Low-level radioactive waste does not include spent fuels or transuranic waste.

The Low Level Waste Policy Act of 1980 set up the compact system to provide for safe and efficient disposal of low-level waste on a regional basis. A key component of this legislation is that it allows these compacts to exclude low-level radioactive waste from other regions. To date we have ten low-level waste compacts. Eight states, the District of Columbia and the territories are not affiliated with a compact.

Since the Low-Level Waste Policy Act was established, each of the compacts has gone through an individualized process to decide whether to establish a disposal facility. Each compact has a unique history that has brought us to where we are today. Currently, four compacts have access to their own disposal facility: (1) the Northwest Compact has access to the Richland Facility located in the state of Washington, (2) the Rocky Mountain Compact has access to the Richland Facility by agreement with the Northwest Compact, (3) the Atlantic Compact has access to the Barnwell Facility in South Carolina, and (4) the Texas Compact has access to the Andrews Facility in Texas. All states have access to the Clive Facility in Utah, but only for Class A waste. The remaining six compacts do not have their own host facility, but they currently have access to the Andrews Facility and the Clive Facility as do the unaffiliated states.

Access to disposal among states has been evolving since low-level radioactive waste was first generated after World War II. Beginning in the 1960s, the United States developed six disposal sites that were fully operational by 1969, three of which were closed by 1978 leaving the Beatty Facility in Nevada, the Richland Facility and the Barnwell Facility. By the 1990s, these facilities were pressured to close or to restrict access resulting in the Beatty Facility closing in 1992 and the Richland Facility restricting access in 1993. South Carolina joined the Atlantic Compact in 2000 and began restricting access to non-compact states that ultimately concluded in the compact excluding all out-of-compact imports at Barnwell in 2008. As a result of these closures and restrictions, 37 states were left with no access to dispose of Class B and Class C waste from 2008 until 2012. In 2012, the Andrews Facility opened its doors to allow for the disposal of Class A, Class B and Class C waste. Additionally, in 1991 the Clive Facility opened but is precluded from accepting Class B and Class C waste.

The Texas Compact was formed in 1998 by the Texas Low-Level Radioactive Waste Disposal Compact Consent Act, Public Law 105-236 and is comprised of two states: Texas as the host state and Vermont as the non-host party state. Although Maine was originally a member of the compact, it exited once it determined it could dispose of its waste at the Barnwell Facility in advance of the Andrews Facility opening. The Texas Compact Commission is not a political subdivision of either Texas or Vermont. The compact has eight voting commissioners: (1) six appointed by the Governor of Texas, and (2) two with one alternate appointed by the State of Vermont. The commission meets approximately every six weeks with most meetings held in Austin and at least one meeting each year held in Vermont. The commission also strives to periodically meet in Andrews County, Texas to allow commissioners to view the facility.

Texas has passed legislation allowing the import of out-of-compact waste up to 275,000 Curies per year (the measure of the radioactivity of the waste); however, the in-compact generators of Texas and Vermont are not subject to that limit. Allowing imports helps to assure the viability of the Andrews Facility for our compact generators; however, this must be balanced with the Texas Compact Commission's main charge of protecting capacity at the Andrews Facility for generators in Texas and Vermont. The Texas Compact must individually review and approve or disapprove each import application for disposal into the Andrews Facility to ensure these imports do not diminish the facility's ability to serve in-compact generators and to ensure they otherwise meet the criteria the commission has set for imports. Further, our compact maintains on its website an up-to-date table of out-of-compact and in-compact disposal at the Andrews Facility by volume and by activity. The Texas Compact must also authorize in-compact generators to export out of the Texas Compact for disposal since the compact law otherwise requires that all low-level waste generated in the two states be disposed of at the Andrews facility. The most common export scenario is for a Texas or Vermont generator to export Class A waste to the Clive Facility.

Since opening of the Andrews Facility in 2012, the Texas Compact has entered into almost 100 agreements for the importation of low-level radioactive waste from 40 states, the District of Columbia and Puerto Rico. Although this activity has been robust, it is still early in the life of the Andrews Facility. The current license expires in 2045 with an opportunity to extend the license after a public comment period and an opportunity for a contested case process. The Texas Compact Commission feels strongly that capacity of the Andrews Facility is fully protected now and into the foreseeable future.

Our compact began its work in earnest with the opening of the Andrews Facility in 2012. As our mission has been put into play and our related functions have grown, we have moved through expected growing pains. We continue to learn more about: (1) the generators who need access to disposal at the Andrews Facility, (2) the policies and processes of our fellow low-level waste compacts, (3) the flexibility needs of the Andrews Facility operator, and most importantly (4) the policies and needs of our party states, Texas and Vermont. As a result, we have been engaged in a continuing process to revise our rules for imports and tweaking our daily operational processes to improve our efficiency and effectiveness. Given that Texas specifically allows imports and the Texas Compact Commission has determined there is currently available capacity, the Andrews Facility is well situated to play a role in addressing low-level radioactive waste disposal needs of our partner states and generators.

On behalf of the Texas Low-Level Radioactive Waste Disposal Compact Commission I thank you for allowing me to provide this testimony. We look forward to continuing to work with this committee and Congress, our fellow compacts, the states, facility operators, and federal partners to ensure safe and timely disposal of low-level radioactive waste.