

Studsvik

Via Electronic Mail

margaret.henderson@tllrwdcc.org

April 12, 2010

Margaret Henderson, Interim Executive Director
Texas Low Level Radioactive Waste Disposal Compact Commission
3616 Far West Blvd., Ste. 117, # 294
Austin, Texas 78731

Re: Comments to rulemaking on export and import

Dear Ms. Henderson:

Studsvik is an international publicly traded company with operations in the United States, the United Kingdom, Sweden, Germany, France and Japan. Studsvik has a strong tradition of research and development and is committed to creating technologies that will enhance the safety and increase the efficiency of processing low-level radioactive waste ("LLW") while minimizing the amount of LLW sent for disposal.

Studsvik is also a low-level radioactive waste processor and employs its patented THOR® technology at its Erwin, Tennessee facility. Studsvik's Tennessee facility has saved over 320,000 cubic feet of disposal space over the last ten years by reducing the volume of LLW, which was primarily in the form of resins and filters from nuclear power plants. Importantly, the THOR® process converts LLW into an inorganic and difficult-to-disperse waste form while substantially reducing the waste volume. Hence, Studsvik's processed waste is in a stabilized form, which vastly reduces the risk of contamination to the biosphere in the event (however unlikely) of a release, and significantly increases the long-term stability of the LLW.

Indeed, the Texas disposal-site operator, Waste Control Specialists ("WCS"), has praised Studsvik's LLW-processing technology. "Studsvik provides a valuable national service because its process transforms the low-level radioactive waste into a safer form for storage and ultimate disposal. At the same time, Studsvik's processing reduces the volume of the low-level radioactive waste by more than 80 percent, which allows for the efficient use of valuable landfill space." WCS Press Release, June 2, 2009.

Studsvik appreciates the opportunity to submit these comments to the Texas Low Level Radioactive Waste Disposal Compact Commission (the "Commission"). We understand the Commission's charge and hope to play a role in its stewardship of the Texas compact disposal site. If the Commission ultimately adopts the proposed rules, we urge you to delay the effective date of the Import Rule until such time as the Commission is prepared to administer it accordingly.

§675.22. Exportation of Waste to a Non-party State for Management or Processing and Return to the Party States for Management or for Disposal in the Compact Facility.

General Comments

This section applies to the exportation of waste “where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction” and return to a party state for ultimate disposal in the compact facility. Studsvik supports the purpose of this subsection but wishes to clarify that its interpretation of “waste reduction” does not mean blending or dilution of waste as described in Texas Administrative Code, Title 30, Section 336.229 (“Texas Anti-dilution Rule”); rather, we would construe “waste reduction” to mean a reduction in waste volume consistent with the United States Nuclear Regulatory Commission’s Policy Statement on Low-Level Waste Volume Reduction found at 46 Fed. Reg. 51100.

§675.22(b)

§675.22(b)(2) requires certain information to be included in a report to the Commission prior to export for processing and reads as follows:

(2) The location and name of waste processing facility(ies) receiving and processing the waste, the type of waste management employed at the waste management facility, whether the exported waste is mixed or blended with waste from other generators, and whether the exported waste is treated to encapsulate the waste [emphasis added]

Studsvik suggests changing “waste management facility” to “waste processing facility” to maintain consistent terminology within this subsection. Further, since the waste processing facility must be identified in §675.22(b)(2), we suggest deleting this same requirement from §675.22(b)(1).

The term “blended” suggests a change in waste classification and could be construed to endorse activities subject to the Anti-dilution Rule. We recommend using the term “commingled” rather than “blended” in this subsection.

The term “encapsulate” is not a defined term and Studsvik suggests that the Commission consider providing a definition for that term. “Encapsulate” could mean as little as placing the waste into a high-integrity container or some other engineered structure—or it could mean more aggressive steps such as encasement in concrete or some other monolithic form. For clarity, all waste Studsvik presents for storage at WCS is stabilized reformed residue from our THOR® process and is contained in high-integrity containers. Studsvik would also like to point out that, as a general rule,

monolithic waste forms cannot take full advantage of volume reduction techniques. In fact, certain monolithic waste forms (e.g., concrete) are extremely inefficient and can actually increase the volume of the waste.

§675.22(c)

Studsvik supports the intent of §675.22(c)(2) and believes applicants should certify their compliance with the Texas Anti-dilution Rule. Studsvik also believes the same certification should be made by out-of-compact generators who seek to import waste for disposal under Section 675.23. As we have testified previously before the Commission, Studsvik strongly opposes the blending of waste and believes it to be an irresponsible practice and contrary to the purposes and objectives of the Commission. Moreover, the blending of waste is clearly not a favored practice for LLW waste management in Texas based upon the Anti-dilution Rule.

§675.23. Importation of Waste for Management or Disposal by a Non-Compact Generator.

§675.23(f)

§675.23(f)(3) states that when the Commission reviews and acts upon an import petition, “an additional, nonrefundable fee may be assessed based on the actual time and expenses incurred in evaluating and acting on the proposed agreement, if the expense exceeds the application fee.” [emphasis added] Accordingly, the Commission appears to reserve the right to recover associated costs and expenses from the petitioner. §675.23(f)(4) states, however, “the fee will be assessed to recover the actual costs of evaluating the proposed agreement” [emphasis added] Regardless whether this is a permissive or mandatory cost-recovery provision, our concern remains the same—it is impossible for a petitioner to predict supplemental fees and costs that will be imposed over the cost of the standard application fee. The proposed cost-recovery mechanism is too vague.

§675.23(g)

Studsvik agrees that a petitioner for waste importation should apply for approval by the Commission and comply with relevant waste-acceptance criteria issued by TCEQ. The process imposed in §675.23(g), however, is overly burdensome since the purposes of this section can be achieved by less onerous means.

According to testimony at previous Commission meetings, TCEQ could issue waste-acceptance criteria “with bounds” that effectively establish acceptable waste streams for disposal—thus eliminating the need for TCEQ to pre-certify each proposed waste stream for importation. Under that scenario, the disposal facility operator could accept imported waste that complies with TCEQ’s waste-acceptance criteria and report

regularly to the Commission, TCEQ, or both. Other states use similar waste-acceptance criteria and allow audits by the relevant state regulators to enforce the law. Moreover, if TCEQ were required to pre-certify each waste stream before a petitioner could submit a petition to the Commission, a petition could be delayed indefinitely because the proposed rules do not impose any deadlines on TCEQ's certification process. We also note that such certifications could substantially increase the workload and responsibilities of TCEQ, requiring additional staff and other resources. We recommend adopting a more streamlined process that relies on TCEQ's waste-acceptance criteria "with bounds," so that a certification by TCEQ is not required prior to submitting an import petition to the Commission. This would eliminate an enormous burden that would otherwise be delegated to TCEQ, and avoid unnecessary delays.

§675.23(h)

We recognize the Commission has had funding problems that continue to affect the Commission's ability to meet on a regular basis. From a practical perspective, however, it would be extremely difficult for waste-importation petitioners to forecast their options for disposal to any reasonable degree of certainty if the pre-certification and petition processes could take more than a year. If the Commission chooses to adopt a process that allows the importation of certain waste streams for disposal, we urge the Commission to streamline the process and afford some degree of certainty to petitioners.

Studsvik further encourages the Commission to delay the effective date of any Import Rule until such time as the Commission has appropriate procedures and administrative support in place to process such requests efficiently. By adopting the Import Rule but delaying the effective date, the Commission will allow imported waste to be a factor in the ratemaking process, which will occur after this rule is adopted.

The decision criteria listed in §§675.23(h)(1) through (12) are appropriate and reasonable. Studsvik believes volume reduction and a stable waste form are important factors for the Commission to consider pursuant to an import petition but also with respect to the Commission's stewardship of the disposal facility's overall disposal capacity.

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Feel free to contact me should you have any questions or should you require any additional information. We look forward to working with the Commission on these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph DiCamillo". The signature is fluid and cursive, with the first name "Joseph" and last name "DiCamillo" clearly distinguishable.

Joseph DiCamillo
General Counsel

JGD:gb
