

# WASTE CONTROL SPECIALISTS LLC

October 28, 2011

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

Re: Petition for Adoption of Rules; 31 T.A.C. § 675.23, *Importation of Waste from a Non-Compact Generator for Disposal*

Dear Ms. Henderson:

Waste Control Specialists LLC ("WCS") submits the enclosed Petition for Adoption of Rules to amend 31 Texas Administrative Code ("T.A.C.") § 675.23, *Importation of Waste from a Non-Compact Generator for Disposal*. The Petition is being submitted to the Texas Low-Level Radioactive Waste Disposal Compact Commission ("TLLRWDC") pursuant to Section 3.05(4) of the Texas Low-Level Radioactive Waste Disposal Compact and Section 2001.021 of the Texas Government Code.

The amendments sought by the Petition are necessary to implement Senate Bill 1504 of the 82nd Texas Legislature and to clarify the forms and procedures to be used for the importation of low-level radioactive waste into the Texas Compact for disposal at the Compact Facility. The TLLRWDC is already familiar with these amendments, as they were presented to the TLLRWDC at its August 20, 2011 meeting.

In order for Senate Bill 1504 to be timely implemented upon the scheduled opening of the Compact Waste Disposal Facility in December 2011, WCS respectfully requests that the Petition be considered by TLLRWDC at its November 9, 2011 meeting, and that the TLLRWDC vote at that meeting to initiate a rulemaking proceeding by proposing rules for public comment consistent with the Petition.

If you or your staff have any questions regarding this petition, please contact me at (972) 450-4235.

Very truly yours,



Rodney A. Baltzer

Enclosure

*Corporate*  
5430 LBJ Freeway, Ste. 1700  
Three Lincoln Centre  
Dallas, TX 75240  
Ph. 972.715.9800  
Fax. 972.448.1419

AUS01:6189884

*Facility*  
P.O. Box 1129  
Andrews, TX 79714  
Ph. 888.789.2783  
Fx. 575.394.3427

**BEFORE THE TEXAS LOW-LEVEL RADIOACTIVE  
WASTE DISPOSAL COMPACT COMMISSION**

**PETITION OF WASTE CONTROL       §  
SPECIALISTS LLC FOR THE       §  
ADOPTION OF RULES               §**

**TO THE COMMISSIONERS OF THE TEXAS LOW-LEVEL RADIOACTIVE WASTE  
DISPOSAL COMPACT COMMISSIONERS:**

Pursuant to Section 3.05(4) of the Texas Low-Level Radioactive Waste Disposal Compact and Section 2001.021 of the Texas Government Code, Waste Control Specialists LLC (“WCS”) hereby petitions the Texas Low-Level Radioactive Waste Disposal Compact Commission (“TLRWDC”) for the adoption of rules to amend 31 Texas Administrative Code (“T.A.C.”) § 675.23, *Importation of Waste from a Non-Compact Generator for Disposal*.

**I.     NAME AND ADDRESS OF PETITIONER**

Waste Control Specialists LLC  
Attn: Rodney A. Baltzer  
5430 LBJ Freeway, Suite 1700  
Dallas, TX 75240-2620

**II.    PURPOSE OF THE PROPOSED RULE**

On January 4, 2011, the TLLRWDC adopted 31 T.A.C. § 675.23, *Importation of Waste from a Non-Compact Generator for Disposal*. Section 675.23 establishes rules for the importation of low-level radioactive waste that is generated in states that are not parties to the Texas Low-Level Radioactive Waste Disposal Compact (“Texas Compact”) for disposal at the compact waste disposal facility licensed by WCS in Andrews, Texas. On May 27, 2011, the 82nd Texas Legislature passed Senate Bill 1504, which manifested the State’s policy to encourage the importation of nonparty compact low-level radioactive waste into Texas for disposal subject to the requirements in that law. The amendments to Section 675.23 described in this Petition implement the policy and requirements established by Senate Bill 1504 with respect to the importation of nonparty compact waste. The proposed amendments also establish new

requirements related to capacity and review of applications for importation and to the extent required by law, promulgate the appropriate importation forms and agreements to be used.

**III. TEXT OF THE PROPOSED RULE IDENTIFYING AMENDMENTS SOUGHT BY THIS PETITION**

**TITLE 31. NATURAL RESOURCES AND CONSERVATION**

**PART 21. TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION**

**CHAPTER 675. PRELIMINARY RULES**

**SUBCHAPTER B. EXPORTATION AND IMPORTATION OF WASTE**

**31 TAC § 675.23**

(a) It is the policy of the Commission that any savings generated by importation accrue to the benefit of the party states. It is also the policy of the Commission that it will not accept the importation of low-level radioactive waste of international origin.

~~[(b) Vermont's disposal capacity reserve is 20% of the Compact Facility maximum volume stated in the Radioactive Materials License dated September 10, 2009, as well as 20% of any additional maximum volume approved in a later license, and this capacity shall not be reduced by non-Compact waste. Such disposal capacity shall be established at least every 5 years by a report of the Commission. The Commission's report shall be informed by the annual report by the host State on the status of the facility, including projections of the facility's anticipated future capacity, and remaining radionuclide specific radioactivity to comply with the Compact Facility Radioactive Materials License.]~~

(b) (1) The Commission may approve for disposal at the Compact Facility nonparty compact waste that is classified as Class A, Class B, or Class C low-level radioactive waste to the extent that such acceptance does not diminish the disposal volume or curie capacity available to party states. The Compact Facility license holder may not accept more than 50,000 total cubic feet of nonparty compact waste annually. The Compact Facility license holder may not accept more than 120,000 curies of nonparty compact waste annually, except that in the first year the license holder may accept 220,000 curies.

(2) Of the total initial licensed capacity of the Compact Facility:

(i) not more than 30 percent of the volume and curie capacity shall be for nonparty compact waste; and

(ii) of the remaining capacity, not less than 80 percent of the volume and curie capacity shall be for compact waste generated in the host state and 20 percent of the volume and curie capacity shall be for compact waste generated in Vermont.

(c) No ~~[petition]~~ application for an agreement to import low-level radioactive waste for disposal shall be granted by the Commission unless

~~[(1) The Commission has issued a report on disposal capacity as required in subsection (b) of this section;]~~

~~[(2) The Compact Facility operator has provided to the Commission a recommended total annual volume to be imported for disposal to the Compact Facility and certified that the disposal of imported waste will not reduce capacity for Party State generated waste, based on the currently licensed volume and activity. The Compact Facility will provide the Commission with radionuclide specific radioactivity amounts for the recommended total annual volume proposed to be imported for disposal. The recommendation shall become final after Commission approval. The approval shall be based on timely renewal of the Compact Facility License by the licensee, assigns, or successors. Any operator of a low-level radioactive waste disposal compact facility, as defined in §2.01 of §403.006 of the Texas Health and Safety Code, must in good faith and with commercially reasonable efforts apply for all necessary permits and licenses to maintain the facility in continual operation; and (3) The]~~ the Compact Commission bylaws have been finalized and approved.

(d) Agreement Required--No person shall import ~~[any low-level radioactive]~~ nonparty compact waste for disposal ~~[that was generated in a non-Party State]~~ unless the Commission has entered into an agreement for the importation of that waste pursuant to this rule. Only the generator of the nonparty compact waste may submit an application for an importation agreement. No ~~[radioactive]~~ waste of international origin shall be imported into the Compact Facility for disposal. Violations of this subsection may result in prohibiting the violator from disposing of low-level radioactive waste in the Compact Facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the Commission.

(e) ~~[Form of Agreement--The form of the Agreement shall be promulgated by the Commission and]~~ Procedures and Forms for Approval of Importation--The procedures for the

approval of the importation of nonparty compact waste are provided under § 675.23(f)-(i). The forms of application and importation agreement, as they may be amended from time to time, are posted on the Commission's web site. [~~or otherwise made readily accessible to generators and to the public.~~] The current forms are included as Annex A and Annex B to this rule.

(f) Fee for Proposed Importation Agreements.

(1) Import Agreement Application Fee--A non-refundable, application fee of \$500 shall accompany the [~~proposed agreement~~] application for importation. Payments shall be made by check, money order or electronic funds transfer made payable to the Texas Low-Level Radioactive Waste Disposal Compact Commission.

(2) No action shall be taken on any [~~proposed agreement~~] application until the application fees are paid.

(3) Import Agreement Evaluation Fee--Prior to any action on the proposed agreement by the Commission, an additional, non-refundable fee may be assessed based on the estimated time and expenses to be incurred in evaluating and acting on the application and proposed agreement, if the expense exceeds the application fee. The estimated fee shall be based on a fee schedule as adopted by the Commission. This fee shall be paid by check, money order, or electronic transfer and made payable to the Texas Low-Level Radioactive Waste Disposal Compact Commission.

(4) The fee schedule will be based on the estimated cost of evaluating the application and proposed agreement and may include, but not be limited to these factors:

(A) the complexity of the proposed agreement (e.g., [~~the number of generators,~~] isotopes, waste streams, waste classifications/activities, waste forms, etc.);

(B) staff expenses;

(C) supplies;

(D) direct and indirect expenses;

(E) purchased services of consultants such as engineers, attorneys or consultants; and

(F) other expenses reasonably related to the evaluation.

(5) This import agreement evaluation fee will be due regardless of whether or not an import agreement is issued and shall be made by check or money order made payable to the Texas Low-Level Radioactive Waste Disposal Compact Commission.

(6) Any fees assessed pursuant to subsection (f) of this section are separate from and independent of any surcharges or other fees assessed by the Texas Commission on Environmental Quality.

(g) Notice and Timing of Agreement--A ~~[person]~~ generator shall file an application and proposed import agreement with the Commission. ~~[and receive approval by the Commission prior to the proposed importation date.~~

~~(1) The proposed import agreement shall be accompanied by a certification by the Compact Facility that the waste acceptance criteria have been met for the proposed waste importation~~

~~(2) By electronic mail, the petitioner shall deliver to the Compact Facility operator a copy of the import agreement (and any supplements or amendments thereto) at the time of filing with the Commission, and a copy shall also be delivered by Certified mail.~~

~~(3) Proposed import agreements received by the Commission during any calendar month may be processed in aggregate at the beginning of the following calendar month. The date of receipt of proposed import agreements shall be deemed the first business day of the following calendar month. Within 15 days of the date of receipt, the Commission shall post the import agreement to the Commission's web site and transmit it to the *Texas Register*.~~

~~(4) Any comments by the Compact Facility operator on the import agreement shall be filed in writing with the Commission not later than 30 days after the deemed date of receipt of the proposed import agreement.]~~ By electronic mail, the generator shall deliver to the Compact Facility operator ~~[shall deliver to the petitioner]~~ a copy of ~~[all comments]~~ the application and proposed agreement (and any supplements or amendments thereto) ~~[submitted to the Commission]~~ at the time of filing with the Commission, and a copy shall also be delivered by Certified mail.

~~[(5) Within 15 days of the date of receipt of the Compact Facility operator comments, the Commission shall post the import agreement to the Commission's web site.]~~

~~[(6) Comments on the proposed import application may be submitted by any person, other than the Compact Facility operator, during the 60 day period following the date of posting to the Commission's web site as specified in paragraph (5) of this subsection.]~~

~~[(7) Concurrently with the posting on the web site as specified in paragraph (5) of this subsection, the Commission will distribute the import agreement and comments received~~

~~from the Compact Facility operator, petitioner, and public to other interested parties by mail or email for information and comment and shall post the import agreement, comments received and other pertinent information on the Commission's web site. The Commission shall distribute the proposed import agreement and any comments received from the Compact Facility or others to the members of the Commission, and distribute comments from others to the Compact Facility operator, the petitioner, and the public.]~~

(h) Review of Proposed Import Agreement--~~[After receiving the proposed import agreement and any comments that have been made thereon, the]~~The Commission [at a meeting held] shall promptly, but no ~~[sooner than 60 days nor]~~ later than ~~[365 days, subject to the financial resources of the Commission,]~~ 60 days after the date the application and proposed import agreement ~~[was]~~ were filed with the Commission, ~~[shall]~~ act upon the application and proposed import agreement utilizing the following factors:

(1) The volume, type, physical form and ~~[radionuclide-specific]~~ total activity ~~(radionuclide-specific activity, if needed)~~ of waste proposed for importation;

(2) The policy and purpose of the Compact;

(3) ~~[The availability of the Compact Facility for the disposal of the waste proposed to be imported;~~

(4) ~~The economic impact, including both potential benefits and liabilities, on the Host County, the Host State, and the Compact Facility operator of entering into the import agreement;~~

(5) ~~Whether the Compact Facility operator has or will obtain, prior to importation, authorization from TCEQ to dispose of the proposed waste's;~~

(6) ~~The effect on the Compact Facility's total annual volume and radionuclide-specific activity recommended for importation;~~

(7) The existence of unresolved violations pending against the petitioner with any other regulatory agency with jurisdiction to regulate radioactive material, and any comments by the regulatory agency with which the petitioner has unresolved violations;

~~[(8)]~~ (4) Any unresolved violation, complaint, unpaid fee, or past due report that the petitioner has with the Commission;

~~[(9) Any relevant comments received from the Compact Facility operator, compact generators, the person proposing to export the waste, the Host County, the Host State, interested state or federal regulatory agencies, or the public;~~

~~(10) The authorization of a person to export (if applicable);~~

~~(11) The impacts, if any, on the availability of disposal capacity on the Compact Facility to meet the current and future needs of Compact generators; and]~~

(5) Whether, by acceptance of the waste for disposal, the Compact Facility will remain below the applicable annual and total volume and curie capacity disposal limits set forth in Sections 401.207(e), (e-1) (if applicable), and (f)(1) of the Texas Health and Safety Code; and

~~[(12) ]~~ (6) Any other factor the Commission deems relevant to carry out the policy and purpose of the Compact.

(i) Decision by the Commission--The Commission may take one of the following actions on the application for a proposed importation agreement, in whole or in part: approve the proposed agreement; deny the proposed agreement; approve the proposed agreement subject to terms and conditions as determined by the Commission; or request additional information needed for a decision. The Commission may deny the ~~[petition]~~ application for:

(1) Lack of current or anticipated capacity beyond that required by party state generators;

~~[(2) Any low level radioactive waste that does not meet the waste acceptance criteria of the license;]~~

~~[(3) ]~~ (2) International origin of the waste, or its original (i.e. pre-processing) generator; and

~~[(4) ]~~ (3) Any other relevant issue. ~~[Any person who was a proper party to the petition]~~–The Compact Facility or the generator applying for importation may petition the Commission to reconsider its decision on an application or proposed agreement within 20-days of the Commission decision. The Commission decision on the petition to reconsider its decision is final and unappealable.

(j) Terms and Conditions--The Commission may impose any terms or conditions on the import agreement reasonably related to furthering the policy and purpose of the Compact.

(k) Importation Agreement Duration, Amendment, Revocation, Indemnification, Reporting, Assignment and Fees.

(1) An importation agreement shall ~~[be issued]~~ remain in effect for the term specified in the ~~[agreement]~~ application and shall remain in effect for that term unless amended by agreement of the Commission and the generator, or revoked ~~[, or canceled]~~ by the Commission prior to importation. A condition of every importation agreement shall be that any ~~[petitioner or]~~ generator of low-level radioactive waste must agree to comply with Section 8.03 of the Compact. In addition, every importation agreement approved by the Commission must include a condition requiring the Compact Facility to receive written certification from the Texas Commission on Environmental Quality that the waste is authorized for disposal under the license prior to the acceptance of waste under the importation agreement.

(2) The Commission may, on its own motion or in response to ~~[a petition]~~-an application by the agreement holder for amendment of an importation agreement for which prior written notice has been given to the agreement holder and the Compact Facility operator, revoke the agreement, add or delete requirements or limitations to the agreement. The Commission may provide a reasonable time to allow the agreement holder and the Compact Facility operator to make the changes necessary to comply with any additional requirements imposed by the Commission.

(3) An import agreement is not assignable or transferable to any other person.

(4) The Commission continues to consider the policy issues related to assessment of fees for the importation of low-level radioactive waste based on volume or activity of the waste. Upon conclusion of consideration of this issue, the Commission may provide for such fees in this section.

(1) The Compact Facility operator shall file with the Commission a Quarterly Import Report, no later than 30 days after the end of each calendar quarter, describing the imported waste that was disposed and stored under the import agreement during the quarter by the Compact Facility, including the physical, radiological and chemical properties of the waste consistent with the identification required by the Compact Waste Facility license. Each Quarterly Import Report will provide the identity of the generator, the manifested volume and activity of each imported class of waste (A, B, and C, or in the case of waste imported for management, Greater Than Class C), the state or other place of origin, and the date(s) of waste disposal, if applicable. The Quarterly Report shall provide this information for the imported waste disposed of during the most recent quarter, as well as the cumulative information for

imported waste disposed of in prior quarters under this Agreement. The forms of the Quarterly Import Report shall be prescribed by the Commission and shall be posted on the Commission's web site, or may be obtained at a location that will be posted on the Commission's web site.

(m) Agreements to Import--Nothing in this subchapter shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 CFR §20.2002.

(n) Form of Import Agreement--~~The import agreement shall [be on a form promulgated by the Commission, posted on the Commission's web site, and shall]~~ contain at a minimum the criteria [~~contained~~] set out in subsection (h) of this section. [~~The form may be amended by the Commission from time to time.~~]

(o) [~~Notwithstanding any other provision of this section, the Commission shall receive but will not begin to process applications for agreements to import waste from a non-compact generator for disposal under this section until such time as the Commission determines by vote taken pursuant to §3.02 of the Compact as compiled at §403.006, Texas Health and Safety Code that it has adequate resources to properly examine applications to enter into agreements prior to entering into such agreements and thereafter to enforce the terms and conditions of such agreements as are entered into.~~ (p)] Definitions--Terms used in this subchapter shall have the meaning ascribed to them in the Compact, except as specifically defined below. Where time requirements are specified in "days," that shall be in calendar days.

(1) "Curie capacity" means the amount of the radioactivity of the waste that may be accepted by the Compact Facility as determined by the commission in the compact waste disposal facility license.

(2) "Nonparty compact waste" means low-level radioactive waste imported from a state other than a party state as authorized under Section 3.05(6) of the compact.

(3) "Party state compact waste" means low-level radioactive waste generated in a party state.

(4) "Waste of international origin" means low-level radioactive waste that originates outside of the United States or a territory of the United States, including waste subsequently stored or processed in the United States.

Annex A: Form of Agreement for Importation of Nonparty Low-Level Radioactive Waste

into Texas Low-Level Radioactive Waste Disposal Compact for Disposal  
See attached.

Annex B: Application Form for Importation: Form of Application for Importation of Nonparty  
Low-Level Radioactive Waste into Texas Low-Level Radioactive Waste Disposal Compact for  
Disposal  
See attached.

#### **IV. EXPLANATION OF THE PROPOSED RULE**

The rulemaking process for TLLRWDC's rule for the importation of nonparty compact waste started in July 2009. Section 3.05(6) of the Texas Compact authorizes the TLLRWDC to enter into an agreement for the importation of nonparty compact waste. After nearly a year of public input and comment on the proposed importation rule, TLLRWDC adopted Section 675.23 on January 4, 2011. 36 Tex. Reg. 571 (Feb. 4, 2011).

Following the adoption of Section 675.23 by the TLLRWDC, the 82nd Texas Legislature convened and undertook a comprehensive review of the opportunities presented by the importation of nonparty compact waste into the Texas Compact. The result of its review, which included an evaluation of Section 675.23 as adopted by the TLLRWDC, is reflected in Senate Bill 1504. With that law, the 82nd Texas Legislature sought to encourage and facilitate the importation of nonparty compact waste provided such importation met certain specified criteria. The criteria that are found in Senate Bill 1504 are not currently reflected in Section 675.23 of the TLLRWDC's rules, which is a source of confusion and uncertainty to the public.

The current version of Section 675.23 includes a lengthy application review process with consideration of factors not specified by the Texas Legislature as necessary for the TLLRWDC's limited role with respect to the management of nonparty compact waste. Adoption of the proposed amendments would ensure consistency with the Texas Legislature's intent to promote safe and efficient importation of nonparty compact waste as a means of generating essential state revenues.

The proposed amendments to Section 675.23 make conforming changes to definitions and other provisions necessary to implement Senate Bill 1504. For example, "nonparty compact waste" and "waste of international origin" are defined.

The proposal eliminates Subsection 675.23(b) regarding the capacity required to be devoted to Vermont waste because that amount is now dictated by law. New section 675.23(b)(1) sets annual volume and curie limits to match new limits set by Senate Bill 1504. The compact waste disposal facility license holder will not be able to accept more than 50,000 total cubic feet or more than 120,000 curies of nonparty compact waste annually, except that in the first year the license holder may accept 220,000 curies. New Subsection 675.23(b)(2) sets the maximum capacity for nonparty compact waste and conforms the rule to the statute for the maximum compact waste generated in Vermont. Subsection 675.23(c) is eliminated because it is not necessary with the new statutory limits and requirements. The TLLRWDCC is required by Senate Bill 1504 to use the Texas Commission on Environmental Quality to conduct a study of capacity of the Compact Waste Disposal Facility to anticipate future capacity needs.

Subsection 675.23(d) is revised to be consistent with the statutory changes and requires that only generators can submit an application for importation. Subsection 675.23(e) is revised to clarify that these rules implement Senate Bill 1504's requirement to adopt procedures and forms for the approval of the importation of nonparty compact waste. The revised procedures for the importation of waste are provided for under Subsections 675.23(f)-(i). The forms of application and importation agreement are also adopted by rule as annexes to Section 675.23 to the extent necessary to comply with applicable law.

The procedures under Subsections 675.23(f)-(i) are streamlined to require prompt review of importation applications and, to allow for the consideration of those factors the Texas Legislature has deemed necessary for the approval of an importation application. New proposed Subsection 675.23(f)(6) makes it clear, consistent with Senate Bill 1504, that any fees assessed pursuant to that section are separate from surcharges and fees assessed by the Texas Commission on Environmental Quality.

Several factors previously determined by the TLLRWDCC to be relevant in the absence of legislative guidance under § 675.23(g) are removed due to the new provisions of Senate Bill 1504. For example, the requirement for the compact waste disposal facility license holder to submit a certification that waste acceptance criteria have been met for the proposed waste importation is unnecessary in light of Senate Bill 1504's requirement that the Texas Commission on Environmental Quality certify that nonparty waste meets disposal requirements. This new

certification requirement is included under revised Subsection 675.23(k)(1). This also eliminated the need for Subsection 675.23(i)(2).

The revised review process under Subsection 675.23(h) is necessary to allow for the timely generation of disposal fees from the importation of nonparty compact waste. The Texas Legislature tied TLLRWDCR revenue to disposal fees and established defined limits on the volume and curies of nonparty compact waste that may be accepted. To this end, the TLLRWDCR need not operate under the lengthy application review timelines and *Texas Register* publication requirements previously contemplated. Public comment periods designed to accommodate generators are no longer needed now that only generators can apply for importation. Similarly, because the Texas Legislature made clear that state revenue was a key factor for accepting nonparty compact waste, the economic impact to the Host County, Host State and Compact Facility is no longer necessary. Subsection 675.23(o) was eliminated because the Texas Legislature has instructed the TLLRWDCR to consider importation agreements by directly linking TLLRWDCR resources to disposal fees. In revised Section 675.23, new definitions consistent with Senate Bill 1504 are added.

**V. STATUTORY AUTHORITY FOR PROMULGATION OF THE PROPOSED RULE**

The Texas Compact is codified at Section 403.006 of the Texas Health & Safety Code. Compact § 3.05(6) allows for the TLLRWDCR to enter into agreements for the importation of waste. Section 3.05(4) authorizes the TLLRWDCR to adopt rules necessary to carry out the terms of the Texas Compact. Rules must be adopted in accordance with Chapter 2001 of the Texas Government Code. Texas Government Code Section 2001.021 states that any person may petition an agency for adoption of a rule. That authority extends to the amendment and/or revocation of rules adopted by the TLLRWDCR. The TLLRWDCR must, within sixty days of receiving the petition, initiate a rulemaking proceeding in accordance with the process outlined under Chapter 2001, unless it elects to deny the Petition.

Respectfully submitted,



---

Rodney A. Baltzer

President

Waste Control Specialists LLC

5430 LBJ Freeway, Suite 1700

Dallas, TX 75240-2620

Tel: (972) 450-4235

Fax: (972) 448-1435

Annex A: Form of Agreement for Importation of Nonparty Low-Level Radioactive Waste into Texas Low-Level Radioactive Waste Disposal Compact for Disposal

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL  
COMPACT COMMISSION

Agreement for Importation of Nonparty Low-Level Radioactive Waste into Texas Low-Level Radioactive Waste Disposal Compact for Disposal

This Agreement for Importation of Nonparty Low-Level Radioactive Waste (“Agreement”) is dated \_\_\_\_\_, 20\_\_\_\_, by and between [Generator] (“Generator”) and the Texas Low-Level Radioactive Waste Disposal Compact Commission (“Commission”) (collectively the “Parties”).

RECITALS

WHEREAS Texas is the host state for the Texas Low-Level Radioactive Waste Disposal Compact (“Compact”), which requires the state to develop a facility for the disposal of low-level radioactive waste generated within the Compact’s party states; and

WHEREAS in compliance with the Compact and with state law, the Texas Commission on Environmental Quality (“TCEQ”) issued a license to Waste Control Specialists LLC (“Compact Facility Operator”) to construct and operate a Compact Waste Disposal Facility (“Compact Facility”) in Andrews County, Texas for the disposal of low-level radioactive waste for the Compact; and

WHEREAS the Texas Legislature has authorized the Compact Facility Operator to accept for disposal at the Compact Facility low-level radioactive waste from waste generators located outside of the Compact party states in accordance with the Compact Facility license and to the extent the acceptance of such imported waste does not diminish the disposal volume or curie capacity available to Compact party states; and

WHEREAS Chapter 403, Section 3.05(6) of the Texas Health and Safety Code authorizes the Commission to enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the Compact for management or disposal, provided that the agreement receives a majority vote of the Commission; and

WHEREAS the Texas Legislature has established additional terms and conditions in Chapter 401 of the Texas Health & Safety Code that if satisfied ensure that the importation of low-level radioactive waste will be in the State’s public interest; and

WHEREAS Generator has filed an Application for Importation of Nonparty Low-Level Radioactive Waste (“Application”) with the Commission; and

WHEREAS the Commission has processed and considered Generator's Application in accordance with applicable requirements, and a majority of the members of the Commission approved the Application and voted to enter into this Agreement; and

WHEREAS in voting to approve Generator's Application and to enter into this Agreement, the Commission considered all relevant statutory and regulatory considerations, including, but not limited to: (a) the volume, type, physical form, and total activity (radionuclide-specific activity, if needed) of the waste proposed for importation as identified in the Application; (b) the policy and purpose of the Compact; (c) the existence of unresolved violations pending against Generator with any other regulatory agency with jurisdiction to regulate radioactive material, and any comments by the regulatory agency with which Generator has unresolved violations; (d) any unresolved violation, complaint, unpaid fee, or past due report that Generator has with the Commission; (e) whether, by acceptance of this waste for disposal, the Compact Facility will remain below the applicable annual and total volume and curie capacity disposal limits set forth in Sections 401.207(e), (e-1) (if applicable), and (f)(1) of the Texas Health and Safety Code; and (f) other factors that the Commission has deemed relevant to carry out the policy and purpose of the Compact and Chapters 401 and 403 of the Texas Health and Safety Code.

#### AGREEMENT

NOW, THEREFORE, in the exercise of its authority under Chapter 403 of the Texas Health and Safety Code, the Commission hereby authorizes the importation of Generator's nonparty low-level radioactive waste, in the form and amounts described in Generator's Application attached hereto ("Generator's Nonparty Compact Waste"), subject to the following terms and conditions.

- A. This Agreement shall remain in effect for the term specified in the Application and shall remain in effect for that term unless amended by agreement of the Parties, or revoked by the Commission prior to importation.
- B. Generator agrees to comply with Chapter 403, Section 8.03 of the Texas Health and Safety Code and shall be liable for its own acts, omissions, conduct, and relationships in accordance with applicable law.
- C. The Commission may, on its own motion or in response to a petition by the Generator for amendment of this Agreement for which prior written notice has been given to Generator and the Compact Facility Operator, revoke this Agreement, or add or delete requirements or limitations to this Agreement, provided that the Commission provides a reasonable time to allow the Generator and the Compact Facility Operator to make the changes necessary to comply with any additional requirements imposed by the Commission.
- D. This Agreement is not assignable or transferable to any other person.

- E. This Agreement is conditioned on receipt by the Compact Facility Operator of written certification from the TCEQ, prior to the acceptance of Generator's Nonparty Compact Waste, that the waste to be imported is authorized for disposal under the Compact Facility license.

[GENERATOR]

BY: \_\_\_\_\_

*Name*

\_\_\_\_\_  
*Title*

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION

BY: \_\_\_\_\_

*Name*

\_\_\_\_\_  
*Title*

Annex B: Form of Importation: Form of Application for Importation of Nonparty Low-Level Radioactive Waste into Texas Low-Level Radioactive Waste Disposal Compact for Disposal

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL  
COMPACT COMMISSION

Application for Importation of Nonparty Low-Level Radioactive Waste  
into Texas Low-Level Radioactive Waste Disposal Compact for Disposal

1. Petitioner/Generator:  
\_\_\_\_\_
2. Mailing address:  
\_\_\_\_\_
3. Person to be contacted concerning this Application (name, title, contact information):  
\_\_\_\_\_
4. Term/Duration from Date of Approval:  
\_\_\_\_\_
5. Waste proposed for importation.
  - a. Waste source (e.g., manufacturing, academic, utility, etc.):  
\_\_\_\_\_
  - b. Waste description:  
\_\_\_\_\_
  - c. Place of origination of waste:  
\_\_\_\_\_
  - d. Waste volume (cubic feet):  
\_\_\_\_\_
  - e. Waste classification (Class A, Class B, or Class C):  
\_\_\_\_\_
  - f. Waste form:  
\_\_\_\_\_

g. Total activity [Radionuclide-specific activity, if needed] (curies):

\_\_\_\_\_

6. Does Petitioner have any unresolved violation, complaint, unpaid fee, or past due report with the Texas Low-Level Radioactive Waste Disposal Compact Commission?

No

Yes. Please explain below:

\_\_\_\_\_

7. Does Petitioner have any unresolved violations pending with any other regulatory agency with jurisdiction to regulate radioactive material?

No

Yes. Please explain below:

\_\_\_\_\_

8. Certifications. Petitioner hereby certifies the following.

a. To the best of Petitioner's knowledge, the information provided herein is accurate and correct, and that the low-level radioactive waste for which this Application is submitted will be packaged and shipped in accordance with applicable state and federal regulations and is acceptable for disposal at the Compact Facility.

b. The person submitting this Application is authorized by Petitioner to commit it to each and every obligation and condition set forth herein and in the Agreement for Importation of Nonparty Compact Waste.

c. Petitioner has paid all applicable fees associated with this Petition, including the Import Agreement Application Fee and the Import Agreement Evaluation Fee.

d. Petitioner has, by electronic and certified mail, delivered to the Compact Facility operator a copy of this Application and the Agreement for Importation of Nonparty Compact Waste (along with any supplements or amendment thereto).

\_\_\_\_\_  
*Print or type name*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

COMMISSION ACTION

Approved

Denied

Basis for denial:

---

---

Approved, subject to the following terms and conditions.

---

---

Additional information needed as described below.

---

---

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL  
COMPACT COMMISSION

BY: \_\_\_\_\_

\_\_\_\_\_ *Name*

\_\_\_\_\_

\_\_\_\_\_ *Title*

\_\_\_\_\_

\_\_\_\_\_ *Date*