



John P. Albers
Radiation Protection
Manager
Humboldt Bay Power Plant

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March 22, 2012

Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC)
3616 Far West Blvd., Suite 117, #294
Austin, TX, 78731

Dear Sir or Madam:

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION
APPLICATION FOR IMPORTATION OF NONPARTY LOW-LEVEL RADIOACTIVE WASTE

Pacific Gas and Electric is currently decommissioning its Humboldt Bay Nuclear Power Plant (HBPP). The opportunity to ship and dispose of the Class B & C waste resulting from the decommissioning is very important to completing the decommissioning goals.

Along with the Import petition we have included additional attachments to further define and describe the waste:

- Signatory Authority Letter
- HBPP Operating License, DPR-7
- Waste Profiles Spreadsheet
- Southwestern Low-Level Radioactive Waste Commission Exportation Policy

Sincerely,

A handwritten signature in black ink that reads 'John P. Albers'.

John P. Albers
Radiation Protection Manager
Humboldt Bay Power Plant

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION

APPLICATION FOR IMPORTATION OF NONPARTY LOW-LEVEL RADIOACTIVE WASTE

(NOTE: PURSUANT TO SECTION 401.207(J), TEXAS HEALTH AND SAFETY CODE, THIS APPLICATION MUST BE COMPLETED BY APPROPRIATE REPRESENTATIVES OF THE DEPARTMENT OF DEFENSE OR THE GENERATOR OF THE WASTE UNLESS THE GENERATOR IS A SMALL GENERATOR AS DEFINED IN SECTION 675.23(0) OF THIS RULE, IN WHICH CASE THE APPLICATION MAY BE SUBMITTED BY AN APPROPRIATELY LICENSED BROKER)

1. Applicant Information:

Entity Name	Pacific Gas and Electric Company, HBPP
Cell Phone	(707) 499-7613
Website address	www.pge.com
Contact Person Phone	John Albers
Email	JPA@pge.com
Physical Address	1000 King Salmon Ave Eureka, CA, 95503
Mailing Address	Same

Is Applicant:

- Generator
 A Broker who is a: Licensed Waste Processor
 Licensed Waste Collector
 Department of Defense

(Notes: (1) An appropriately licensed Broker may act on behalf of a Small Generator only if each such generator is identified and written authorization from each such generator is provided as an attachment hereto. (2) While DoD Regulation 4715.6-R designates the Department of the Army as Executive Agent for disposal of low-level radioactive waste, the Commission will require that any agreement that it enters into in this regard be signed by both the Department of the Army as Executive Agent and the branch of the military that has generated the waste.)

Generator Type:

<input type="checkbox"/>	Industrial
<input type="checkbox"/>	Academic/Research
<input type="checkbox"/>	Medical
<input checked="" type="checkbox"/>	Utility
<input type="checkbox"/>	Government

Is Applicant the entity responsible for the waste shipment? Yes No

If no, please include the name and contact information for the entity responsible for the waste shipment.

Is Waste from a "Small Generator"? Yes No

2. Term/Duration from Date of Approval: 4/1/2012 through 4/1/2014

3. Waste proposed for importation.

Waste Volume (Cubic Feet)	<u>1147 estimate</u>
Waste Radioactivity in Curies	<u>732 estimate</u>
Place of origination (State) of waste:	<u>California</u>
Waste description:	<u>Irradiated Hardware, Reactor Internals from HBPP</u> <u>Resins, from HBPP</u>

Waste classification (Class A, Class B, or Class C): Class B & Class C

Waste form Stable Unstable

Does waste contain any of the following radionuclides, check box(es) and complete blank(s):

<input checked="" type="checkbox"/>	C-14	<u>803 estimate</u>	millicuries (mCi)
<input checked="" type="checkbox"/>	Tc-99	<u>5650 estimate</u>	microcuries (uCi)
<input type="checkbox"/>	I-129	_____	nanocuries (nCi)
<input type="checkbox"/>	Depleted Uranium	_____	microcuries (uCi)
<input type="checkbox"/>	Concentration	_____	(provide units)
<input checked="" type="checkbox"/>	Source of generation	<u>Nuclear Reactor Operations</u>	

4. Is the proposed waste a sealed source?

No Yes | Please Explain: _____

5. Does Broker and/or Generator(s) have any unresolved violation(s), complaint(s), unpaid fee(s), or past due report(s) with the Texas Low-Level Radioactive Waste Disposal Compact Commission?

No Yes | Please Explain: _____

6. Does Broker and/or Generator(s) have any unresolved violation(s), complaint(s), unpaid fee(s), or past due report(s) pending with any other regulatory agency with jurisdiction to regulate radioactive material including, without limitation, the TCEQ?

No Yes | Please Explain: _____

7. Certifications. Applicant hereby certifies the following.

a. The information provided herein is complete, accurate and correct.

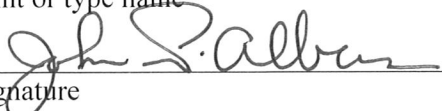
b. The low-level radioactive waste for which this Application is submitted will be packaged and shipped in accordance with applicable state and federal regulations and is acceptable for disposal at the Compact Facility.

c. The person submitting this Application is authorized by Applicant to commit Applicant to each and every obligation and condition set forth herein and in the Agreement for Importation of Nonparty Compact Waste. A copy of a written document containing such authorization must be attached to this Application.

d. Applicant has 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).

8. Authorized Signatory:

JOHN P. ALBERS
Print or type name


Signature

RADIATION PROTECTION MANAGER
Title

3-22-2012
Date

ATTACHMENTS: (Attachments should include all applicable licenses, authorizations, and other materials needed or useful to fully explain the application.) ANNEX A TO RULE 675.23

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 _____, by and between [Generator] (“Generator”) and the Texas Low-Level Radioactive Waste Disposal Compact Commission (“Commission”) (collectively the “Parties”).

I. 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.

II. Representations and Acknowledgements

WHEREAS The Generator represents and acknowledges the following:

- A. The generator has disclosed in its Application for Importation the existence of unresolved violations pending against the applicant with any other regulatory agency with jurisdiction to regulate radioactive material.
- B. The generator has disclosed in its Application for Importation the existence of any unresolved violation(s), complaint(s), unpaid fee(s), or past due report(s) that the applicant has with the Commission.
- C. The generator has disclosed in its Application for Importation the existence of any unresolved violation(s), complaint(s), unpaid fee(s), or past due reports that the applicant has with any other regulatory body, including, without limitation, the TCEQ.
- D. The generator acknowledges that a misrepresentation with respect to an item listed in A, B, or C may result in the cancellation of the agreement.
- E. The generator acknowledges the obligation to report immediately to the Commission any allegation of the violation of any law, rule or regulation related to the storage, shipment or treatment of any form of radioactive material.
- F. The generator acknowledges the right of the Commission to audit or cause to be audited compliance with the agreement.
- G. The generator affirms that no waste of international origin shall ever be included in the materials to be imported to the Compact facility.

III. 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 below ("Generator's Nonparty Compact Waste"), subject to the following terms and conditions.

- A. This Agreement shall remain in effect from April 1, 2012 through April 1, 2014 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 subject to 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 licensee.
- F. The applicant agrees to comply to the extent applicable with the rules related to commingling adopted by TCEQ in coordination with the Commission pursuant to Section 401.207(k), Texas Health and Safety Code
- G. The waste is described below:

Waste Volume (Cubic Feet)	<u>1147 estimate</u>
Waste Radioactivity in Curies	<u>732 estimate</u>
Place of origination (State) of waste:	<u>California</u>
Waste description:	<u>Irradiated Hardware, Reactor Internals from HBPP</u> <u>Resins, from HBPP</u>

Waste classification (Class A, Class B,
or Class C):

Class B & Class C

Waste form

Stable

Unstable

Does waste contain any of the following radionuclides, check box(es) and complete blank(s):

<input checked="" type="checkbox"/>	C-14	803 estimate	millicuries (mCi)
<input checked="" type="checkbox"/>	Tc-99	5650 estimate	microcuries (uCi)
<input type="checkbox"/>	I-129		nanocuries (nCi)
<input type="checkbox"/>	Depleted Uranium		microcuries (uCi)
<input checked="" type="checkbox"/>	Concentration	See Attachment	(provide units)
<input checked="" type="checkbox"/>	Source of generation	Nuclear Reactor Operations	

[GENERATOR]

BY: JOHN P. ALBERS

Name

RADIATION PROTECTION MGR.

Title

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION

BY: _____

Name

Title



Loren Sharp
Director/Nuclear Plant
Manager
Humboldt Bay Power Plant

1000 King Salmon Ave
Eureka, CA 95503

707-444-0819 Office
707-444-0871 Fax
LDSI@pge.com

March 22, 2012

Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC))
3616 Far West Blvd., Suite 117, #294
Austin, TX, 78731

Dear Sir or Madam:

AUTHORITY TO CERTIFY LOW LEVEL RADIOACTIVE WASTE TRANSACTIONS

Humboldt Bay procedure, HBAP A-1 section 3.3 documents the responsibilities of the Radiation protection Manager

3.3 The Radiation Protection Manager reports to the Nuclear Plant Manager. The Radiation Protection Manager is responsible for implementing the radiation protection program at HBPP in accordance with 10 CFR 20; and for the Offsite Dose Calculation Manual, Radioactive Effluents and Reporting requirements in HBQAP Appendix B. The Radiation Protection Manager meets or exceeds ANSI ANS 3.1-1981. I

John Albers is currently serving as the Radiation Protection Manager and has full authority to certify all aspects of the management, collection, packaging, manifesting and transportation of LLRW from the Humboldt Bay Nuclear Power Plant. This authority applies to all PG &E LLRW storage, shipment, transportation, disposal transactions, subject to the applicable Nuclear Regulatory Commission (NRC), Texas Commission of Environmental Quality (TCEQ), and the Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC) regulations, and all other federal, state and local government laws and regulations that may apply to LLRW generated at the Humboldt Bay Nuclear Power Plant, in Eureka, CA.

Sincerely,

A handwritten signature in black ink that reads "Loren Sharp". The signature is written in a cursive, flowing style.

Loren Sharp
Director / Nuclear Plant Manager
Humboldt Bay Power Plant

PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-133

HUMBOLDT BAY POWER PLANT, UNIT NO. 3

FACILITY LICENSE

License No. DPR-7

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment filed by Pacific Gas and Electric Company (the licensee), dated July 30, 1984 as revised by letters dated February 28, 1985 through May 23, 1988, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations as set forth in 10 CFR Chapter I;
 - B. The facility will be maintained in conformity with the application, the provisions of the Act, and the regulations of the Commission;
 - C. There is reasonable assurance: (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations set forth in 10 CFR Chapter I;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Accordingly, Facility License No. DPR-7 is hereby amended in its entirety to read as follows:
 - A. This license applies to the Humboldt Bay Power Plant Unit No. 3, consisting of a boiling water reactor (the facility) and associated components and equipment, which is owned by Pacific Gas and Electric Company (the licensee) and located in Humboldt County, California, and described in the licensee's application dated April 27, 1959, as amended.

- B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Pacific Gas and Electric Company:
1. Pursuant to Section 104b of the Act and Title 10, CFR, Chapter I, Part 50, "Domestic Licensing of Production and Utilization Facilities," to possess but not operate the facility as a utilization facility at the designated location in Humboldt County, California, to continue to maintain this facility for the storage, control and maintenance of the spent fuel in a safe condition, and to take actions necessary to decommission and decontaminate this facility. **Amndt #35 9/10/04**
 2. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Domestic Licensing of Special Nuclear Material," to possess and use
 - (a) 2 grams of uranium-235 in miniature ionization chambers;
 - (b) 10 grams of uranium-235 in ionization chambers; and
 - (c) 100 grams of plutonium encapsulated plutonium-beryllium neutron sources;and to possess
 - (d) 1000 kilograms of contained uranium-235 at any one time.
 3. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," to receive, possess and use a maximum of:
 - (a) 12,000 curies of Antimony-124 in the form of two Antimony cylinders (for use in Antimony-Beryllium neutron sources) and 3000 curies of Antimony-124 in the form of two Antimony cylinders (for use in Antimony-Beryllium neutron sources) in storage awaiting transfer offsite; and
 - (b) 30 curies of cobalt 60 in the form of two sealed sources.
 4. Pursuant to the Act and Title 10, CFR, Chapter I, Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source, or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components." **Amndt #39 4/17/07**

- 3 -

- Amndt**
5. Pursuant to the Act and Title 10, CFR, Chapter I, Parts 30 and 70, to possess, but not to separate, such byproduct and special nuclear materials which were produced by operation of the reactor. **#39**
4/17/07
- C. This license shall be deemed to contain and is subject to the conditions specified in Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Section 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70 of the Commission's regulations, and is subject to all applicable regulations and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified or incorporated below.
1. Intentionally Deleted **Amndt**
#43
7/16/08
2. Technical Specifications
- The Technical Specifications contained in Appendix A, as revised through Amendment No. 44, are hereby incorporated in the license. Pacific Gas and Electric Company shall maintain the facility in accordance with the Technical Specifications.
3. With respect to changes to the facility or procedures described in the Decommissioning Plan, or changes to the Decommissioning Plan, and the conduct of tests and experiments not described in the Decommissioning Plan, the provisions of 10 CFR 50.59 shall apply. **Added per Amndt. #29**
7/7/95
4. To demonstrate compliance with the NRC License Termination Rule, the Final Status Survey for Humboldt Bay Power Plant, Unit No. 3 license termination may utilize the results of the licensee's surveys of the area underlying the new fossil generation facility, referred to as the Humboldt Bay Repowering Project, provided a cross contamination prevention and monitoring plan is maintained. **Added per Amndt. #40**
9/11/07

-4-

- D. This license amendment is effective as of the date of issuance and shall expire at midnight, November 9, 2015.

FOR THE NUCLEAR REGULATORY COMMISSION

Lester S. Rubenstein, Acting Director
Standardization and Non-Power
Reactor Project Directorate
Division of Reactor Projects III, IV,
V and Special Projects
Office of Nuclear Reactor Regulation

Enclosure:
Appendix A – Technical
Specifications

Date of Issuance: July 19, 1988

Attachment to TLLRWDC Import Petition

The following table represents the total projected irradiated hardware waste to be sent to WCS, Texas during the agreement period. Pacific Gas and Electric, Humboldt Bay Power Plant (HBPP) proposes to dispose of Class C Waste in the following disposal volumes and curie concentrations.

Profile Name: Irradiated Hardware

Class C Components totals for Irradiated Hardware Profile		
Projected Volumes (6) liners @ 121 ft3 = 726ft3 - potentially (7) liners @ 121ft3 = 847ft3		
Nuclide	Curies	+ 15% (Curies)
C-14	6.97E-01	8.02E-01
Co-60	1.43E+02	1.65E+02
Ni-63	4.80E+02	5.52E+02
Sr-90	1.80E-03	2.07E-03
Nb-94	4.46E-03	5.12E-03
Tc-99	4.23E-03	4.86E-03
Cs-137	1.63E-02	1.87E-02
Pu-238	6.33E-03	7.28E-03
Pu-239	2.38E-03	2.74E-03
Pu-241	4.91E-02	5.64E-02
Pu-242	5.73E-04	6.59E-04
Am-241	4.94E-02	5.68E-02
Cm-243	3.42E-04	3.93E-04
Fe-55	1.23E+00	1.41E+00
Ni-59	4.21E+00	4.84E+00
H-3	1.05E-03	1.21E-03
Total Ci	6.30E+02	7.24E+02

The following table represents the total projected Resins waste to be sent to WCS, Texas during the agreement period. Pacific Gas and Electric, Humboldt Bay Power Plant (HBPP) proposes to dispose of Class B & C Waste in the following disposal volumes and curie concentrations.

Profile Name: Resins

Class C Components totals for Resins Profile		
Projected Volumes 2 HICs of ~ 100ft3 = ~200 ft3, potentially 3 HICs = ~300 ft3		
Nuclide	Ci	+15% (Ci)
H-3	6.18E-02	7.11E-02
C-14	1.31E-03	1.51E-03
Fe55	1.52E-01	1.74E-01
Co-60	2.56E-01	2.94E-01
Ni-63	1.26E+00	1.45E+00
Sr-90	7.65E-01	8.80E-01
Tc-99	6.83E-04	7.86E-04
I-129	1.59E-04	1.82E-04
Cs-137	3.96E+00	4.56E+00
Pu-238	1.25E-02	1.44E-02
Pu-239	7.59E-03	8.73E-03
Pu-240	7.59E-03	8.73E-03
Pu-241	1.76E-01	2.03E-01
Pu-242	3.19E-04	3.66E-04
Am-241	3.19E-02	3.67E-02
Cm-242	2.11E-04	2.43E-04
Cm-243	8.93E-04	1.03E-03
Cm-244	8.93E-04	1.03E-03
Total Ci	6.70E+00	7.70E+00

Combined		
Max Waste Projected (ft3)		1147
Max Total Activity	Ci	7.32E+02
	Ci/ft3	0.64
Max C14	Ci	8.03E-01
Max Tc99	Ci	5.65E-03

**POLICY OF THE
SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION
REGARDING EXPORTATION OF VARIOUS
LOW-LEVEL RADIOACTIVE WASTE STREAMS**

Amended May 6, 2011

The purpose of this policy statement is to interpret the authority of the Southwestern Low-Level Radioactive Waste Commission (Commission) with regard to the exportation of material, which otherwise meets the criteria of low-level radioactive waste, outside the Southwestern region. Such interpretation will: (1) establish the jurisdiction of the Commission as set forth in Public Law; (2) designate exportations for the purpose of disposal; (3) designate exportations for the purpose of recycling; (4) designate exportations for the purpose of treatment (5) designate waste outside the jurisdiction of the Commission; (6) establish the bounds of authority of the Executive Director to approve exportation petitions on behalf of the Commission; and (7) establish an exportation fee mechanism.

JURISDICTION OF THE COMMISSION

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (Act) (Pub.L. No. 99-240, 99 Stat. 1842) made each State responsible for providing, either by itself or in cooperation with other States, for the disposal of low-level radioactive waste generated within the State. The Act expressed the policy of the Federal Government that the responsibilities of the States for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis. To carry out this policy the Act authorized the States to enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste. Pursuant to this authority and with the consent of Congress, the states of Arizona, California, North Dakota and South Dakota have entered into such a compact embodied in the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act (Compact) (Pub.L. No. 100-712, 102 Stat. 4773). The Compact established the Southwestern Low-Level Radioactive Waste Commission (Commission) and enumerates its duties and authority.

The first and foremost duty and authority of the Commission is set forth in the Compact as follows:

"The Commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region." (Compact, § 5, art. III, subd. (g)(1).)

This provision directs the Commission to take appropriate action to ensure that low-level radioactive waste is safely disposed of and managed in the region. As to the intended meaning of this language, reference to the definitions found in section 5, article II, of the Compact is necessary.

"Low-level radioactive waste", over which the Commission has jurisdiction, is defined by the Compact to mean:

". . . regulated radioactive material that meets all of the following requirements:

"(1) The waste is not high-level radioactive waste, spent nuclear fuel, or by-product material (as defined in section 11e (2) of the Atomic Energy Act of 1954. . . .

"(2) The waste is not uranium mining or mill tailings.

"(3) The waste is not any waste for which the Federal Government is responsible pursuant to subdivision (b) of section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985.

"(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than one hundred nanocuries per gram, or plutonium-241 with a concentration greater than three thousand five hundred nanocuries per gram, or curium-242 with a concentration greater than twenty thousand nanocuries per gram." (Compact, § 5, art. II, subdivision (I).)

"Low-level radioactive waste", over which the Commission has jurisdiction, includes that waste classified by the U.S. Nuclear Regulatory Commission as provided in 10 CFR § 61.55.

Accordingly, the Commission has jurisdiction over regulated radioactive material which meets the criteria above, with the exception of discrete sources of naturally occurring radioactive material and all accelerator produced radioactive material. These materials are regulated by the Nuclear Regulatory Commission (NRC), but are excluded from the Commission's jurisdiction by law.

"Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental Protection Agency under applicable laws, or by a party state if the state hosts a disposal facility (Compact, § 5, art. II, subdivision (C)). Permanent isolation refers to emplacement of the low-level radioactive waste in a low-level radioactive waste disposal facility established and operated under the Compact so as to isolate it from the biosphere inhabited by man and containing his food chains.

The term "managed" relates to management which means collection, consolidation, storage, packaging, or treatment (Compact, § 5, art. II, subdivision (J)).

In accordance with these definitions, section 5, article III, subdivision (g)(1) means the Commission has the duty and the authority to do whatever is reasonably necessary to ensure that regulated low-level radioactive wastes are safely managed, i.e., collected, consolidated, stored, packaged, and treated and safely disposed of by permanent isolation in the region's land disposal facility. This authority, when combined with the provision found in section 5, article VIII, subdivision (A) of the Compact which states, "[t]he provisions of this compact shall be broadly construed to carry out the purposes of the compact" gives the Commission broad discretion in the exercise of its responsibilities

EXPORTATION FOR DISPOSAL

There are two exportation provisions within the Compact. The first is found at section 5, article III, subdivision (g) (20) of the Compact. It states:

"The Commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The Commission may approve the petition only by a two-thirds vote of the Commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the Commission."

This provision grants the Commission the authority to allow the exportation of low-level radioactive waste to a low-level radioactive waste disposal facility located outside the region. Such language implies that the low-level radioactive waste is being exported for disposal, i.e., for permanent isolation by emplacement of the waste in such a low-level radioactive waste land disposal facility. This exportation is contingent upon the Commission's approval of a petition by a two-thirds vote. The exportation is subject to specified terms and conditions.

The Commission interprets section 5, article III, subdivision (g) (20) of the Compact to apply to any low-level radioactive waste exported either directly or indirectly to a low-level radioactive waste disposal facility located outside the region. "Directly" refers to the exportation of low-level radioactive waste from a location in the Southwestern region directly to a low-level radioactive waste land disposal facility located outside such region.

"Indirectly" refers to the exportation of low-level radioactive waste from a location in the Southwestern region to a facility at a location outside the region which is not a low-level radioactive waste disposal facility and where such wastes are stored or processed for subsequent disposal at a low-level radioactive waste disposal facility located outside the region.

EXPORTATION FOR RECYCLING

The second exportation provision which is found at section 5, article III, subdivision (g) (21) of the Compact states:

"The Commission may approve, only by a two-thirds vote of the Commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling."

Pursuant to this provision, the Commission has the authority to approve exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, providing the sole purpose of the waste is to process the material for recycling.

"Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion." (Exec. Order No. 12873, 58 Fed. Reg. 54911 (Oct. 20, 1993).)

The American Heritage Dictionary of the English Language defines recycle as follows:

In adopting this policy statement by at least a two-thirds vote, the Commission approves the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste if the sole purpose of the exportation is to process the material for recycling and no part of the material will be disposed of as waste outside of the region in a low-level radioactive waste land disposal facility. Such approval is general in nature, that is the approval is effective without the filing of any petition with the Commission. However, if any residual low-level radioactive waste remains after the processing and such waste requires disposal at a low-level radioactive waste land disposal facility than an approved export petition is required.

TREATMENT OF LOW-LEVEL RADIOACTIVE WASTE

As stated previously the Commission has the authority to do whatever is reasonably necessary to ensure that low-level radioactive waste is safely managed (Compact, § 5, art. III, subd. (g)(1)). Management includes treatment (Compact, § 5, art. II, subd. (J)). Treatment is a waste conditioning activity which facilitates disposal and recycling (C.C.R., tit. 22, §66216.). It occurs after the material is designated a waste and before its ultimate disposition. Treatment includes, but is not limited to storage for disposal, incineration, and storage for decay. The Commission's authority over exportation of low-level radioactive waste for treatment is derived by implication from section 5, article III, subdivisions (g)(20) and (g)(21). Pursuant to such authority and in adopting this policy statement by at least a two-thirds vote, the Commission approves the exportation of low-level radioactive waste for treatment outside the region. However, if, after treatment, the low-level radioactive waste is disposed of outside the region in a low-level radioactive waste land disposal facility, then the requirements of section 5, article III, subdivision (g) (20) must be satisfied.

WASTE OUTSIDE THE JURISDICTION OF THE COMMISSION

Waste over which the Commission has jurisdiction is defined by the Compact to mean regulated radioactive material that specifically meets the requirements stated above. There is a class of materials that typically contain very low concentrations of radionuclides from licensed sources used or possessed by licensees of the U.S. Nuclear Regulatory Commission (NRC) or agreement states but which, for the purposes of disposition, are regarded by the NRC and agreement states through decision, license condition, or technical specification, as something other than low level radioactive waste. Although the NRC policy and regulatory framework that addresses this class of materials and its disposition has been under review for some time, currently these materials are considered not regulated by the NRC and therefore outside the jurisdiction of the Commission as defined by the Compact. As a consequence the Commission has adopted the following policy relative to this class of material:

1. Waste which is determined by license condition or technical specification or agreement state decision or NRC decision to qualify for Conditional Clearance (i.e., restricted release from regulatory control) or for Unconditional Clearance (i.e. unrestricted release from regulatory control) is not subject to the jurisdiction of the Commission.
2. Waste which is determined by license condition or technical specification or agreement state decision or NRC decision to qualify for No Release (from regulatory control) is subject to the requirements of the Compact, section 5, article III, subdivision (g)(20). In other words, such waste must be sent to a facility licensed to accept radioactive solid material for disposal, and export of such low-level radioactive waste is subject to the jurisdiction of the Commission.

APPROVAL OF PETITIONS FOR EXPORTATION

The Compact states that the Commission may, upon petition, allow the exportation of low-level radioactive waste to disposal facilities outside the region. Such petitions require a two-thirds vote of the Commission for approval.

The Commission process for approval of exportation petitions is structured to insure compliance with the Commission document "Requirements of the Southwestern Low-Level Radioactive Waste Commission for Exportation Petitions for Low-Level Radioactive Waste Disposal," as amended, which is approved by a two-thirds vote of the Commission. Petitions submitted to the Commission are evaluated by the Executive Director for compliance with these requirements, and if proper are processed and approved on behalf of the Commission, subject to oversight by the Commission's Exportation Advisory Committee.

If a petitioner seeks an exportation decision at a Commission meeting, the petition must be submitted to the Commission in time to have it placed on the meeting agenda. The petition format must be consistent with the requirements in the document entitled, "Requirements of The Southwestern Low-Level Radioactive Waste Commission For the Exportation Petitions for Low-Level Radioactive Waste Disposal." The Commission makes the decision at its meeting regarding the petition. The Commission's Executive Director then processes such petitions after the decision including approving the petition when directed by the Commission.

Oversight by the Exportation Advisory Committee includes, but is not limited to:

1. Monthly review of the details of each petition processed by the Executive Director during the period under review;
2. Coordination with the Executive Director where necessary;
3. Reporting to the full Commission at each Commission meeting on the activities of the Committee to verify that the petition approval process is operating as the Commission intended;
4. Recommending changes to the petition approval procedure when necessary; and
5. Requesting Commission ratification of petitions processed since the last meeting.

EXPORTATION FEES

The Commission is authorized pursuant to Public Law 100-712, section 5, article III, subdivision (g)(20) to approve petitions for exportation subject to specified terms and conditions. The Commission has determined that one such term and condition is the payment of an exportation fee by the petitioner to the Commission. Collection of the revenue generated by such fee is necessary to fund the activities of the Commission and Commission staff in the performance of Compact required functions pending receipt of revenue from operations at this Compact's regional disposal facility. Such fee shall (1) not discriminate, (2) be based on a fair approximation of use, and (3) be structured to produce revenues that will not exceed the total cost to the Commission of the benefits conferred. In general, the exportation fee due is calculated by applying a Commission approved rate (dollars per cubic foot) against the actual volume of waste exported during the effective period of the approved petition. However, the Commission may establish a range, with minimum and maximum volume levels, for which the general formula is to be applied and may set different approved rates below the minimum volume level and above the maximum volume level. Because the actual volume amount to be exported during this period may not be known ahead of time, the petitioner is to estimate the amount and pay a tentative fee based on this estimated amount.

Payment of a tentative exportation fee based on an estimated volume raises two issues. The first is where the petitioner underestimates the amount of waste to be exported during the period and the second is where the petitioner overestimates the amount. In case of an underestimate, such petitioner is required to submit a new petition and pay the exportation fee associated with this new petition prior to exceeding the volume limit approved in the earlier petition. In case of an overestimate, such petitioner may request a refund from the Commission of the pro rata share of the fee paid. Such request is to be made within six months after the end of the year when the actual volume is known.

For this exportation fee mechanism to function effectively, it is important that the petitioner comply with the companion term and condition found in the petition, that being the requirement to submit to the Commission a timely report of the type, volume and radioactivity of each disposal under the petition.

This policy statement shall remain in effect until December 31, 2011.

Approved

Aubrey Godwin
(amended & signed 5/6/2011)

Chair
Southwestern Low-Level
Radioactive Waste Commission