

The Institute accepted public comments in writing and by fax through July 6, 2015. No public comments were received.

Statutory Authority

The rule changes are adopted under the authority of the Texas Health and Safety Code Annotated, §102.108 and §102.251, which provides the Institute with broad rule-making authority to administer the chapter. Kristen Pauling Doyle, the Institutes General Counsel, has reviewed the proposed amendment and certifies the proposal to be within the Institutes authority to adopt.

There is no other statute, article or code that is affected by these rules.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

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

CHAPTER 675. OPERATIONAL RULES SUBCHAPTER B. EXPORTATION AND IMPORTATION OF WASTE

31 TAC §§675.20 - 675.23

The Texas Low-Level Radioactive Waste Disposal Compact Commission (Commission) adopts new §675.20 and the amendments to §§675.21 - 675.23 *with changes* to the proposed text, as published in the May 8, 2015, issue of the *Texas Register* (40 TexReg 2500).

Summary of the Factual Basis for the Adoption of the Amendments

The Commission initiated this rulemaking to review, comprehensively, the preliminary rules under which it had been operating since calendar year 2012. The objectives of this rulemaking are to simplify the processes by which applicants and petitioners seek Commission action; simplify and clarify the language of the rules; to activate and amend the rule for exportation of waste now that the Commission has made the determination required by former §675.22(l); and, in some cases, to correct grammatical errors found in the preliminary rules. During the time the Commission has been operating under the preliminary rules, it has evaluated the manner in which the rules operated and has identified aspects in which the rules can be improved.

The adopted amendments to the existing rules, coupled with the promulgation of a new rule collecting all definitions in a single rule that precedes all of the other rules, are designed to improve and streamline the process by which persons appearing before the Commission seek approval of their actions.

Section by Section Discussion

The Commission has adopted the change in the title of Chapter 675 from "Preliminary Rules" to "Operational Rules." In addition, the Commission adopts various stylistic, non-substantive changes to update rule language to current *Texas Register* style and format requirements. Such changes include appropriate and consistent use of acronyms, section references, rule structure, and certain terminology. These changes are non-substantive and generally are not specifically discussed in this preamble.

§675.20, Definitions

New §675.20 collects the majority of the definitions of terms used in the Commission's rules into a single rule.

§675.21, Exportation of Waste to a Non-Party State for Disposal

Amended §675.21 specifies the procedure that must be used, beginning on the effective date of the rule, by a party-state generator to petition the Commission for permission to export party-state waste to a non-party state for disposal. The amendments also: 1) distinguish petitioners for permission to export waste from applicants for agreements to import waste; 2) clarify the types of regulatory violations the Commission will consider when deciding whether a petitioner may export waste; and 3) reflect the Commission's adoption of an "allotment" approach to permits to export waste.

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

Amended §675.22 clarifies its terms, recognizes that some party-state waste shipped out for management or processing is not returned to the generator, but is, instead, shipped directly to the Compact Facility for disposal, and increase the likelihood that the Commission will receive timely and legible reports.

§675.23, Importation of Waste from a Nonparty Generator for Disposal

Amended §675.23 clarifies its language; conforms the provisions of the rule more closely to the Texas Low-Level Radioactive Waste Disposal Compact; reduces the amount of time needed for the Commission to act on applications for the importation of non-compact waste for disposal at the Compact Facility; changes the mechanism by which applications for the importation of waste may be submitted to the Commission; and allows the delegation of certain decisions regarding minor amendments to existing agreements for the importation of waste to the Compact Commission chairman or his delegate, acting in consultation with a committee of the Commission or other persons employed or retained by the Commission for the purpose.

Amended subsection (f) (formerly subsection (h)) alters the manner in which applications are submitted to (rather than filed with) the Commission.

Amended subsection (f)(3) (formerly subsection (g)) implements changes to the rule to streamline the process of providing notice of applications for import agreements.

Amended subsection (f)(4) (formerly subsection (h)) ensures that comments made on any application for an import agreement at least one week before a meeting at which the Commission proposes to act on such application will be considered by the Commission. It also recognizes that the Commission may, but is not required to, consider comments filed less than one week before the meeting at which the Commission will consider the application.

Amended subsection (i) eliminates restrictions on the time within which the Commission, its staff, or its delegates must review any submitted applications for import agreements; modifies the application form for importation agreements to conform to changes in the TCEQ-issued license for the Compact Facility; clarifies the types of violations of the regulations of other administrative bodies that it will consider in acting on an application for an import agreement; and clarifies existing language.

Amended subsection (j) reduces the time for Commission action on applications for import agreements; clarifies that the Commission does not require or consider motions for rehearing; and makes clear that the Commission may deny an application for an import agreement if it is possible that the waste to be imported is or contains waste of international origin.

Amended subsection (k) is adopted solely for clarity.

Amended subsection (l) implements the Commission's decision to use an "allotment" method for import agreements; clarifies when shipments may begin to be made under an amended import agreement; adopts a plan for the delegation of authority to approve certain minor amendments; and eliminates the possibility of the Commission's imposing a fee for processing applications for import agreements under current rules.

Final Regulatory Analysis

The Commission has determined that the adopted rulemaking is not a "major environmental rule" as defined by Texas Government Code, §2001.0225.

Small Businesses and Microbusinesses

The Commission has determined that the adopted rules will not have an adverse economic impact on either small businesses or microbusinesses.

Takings

The Commission has determined that the adopted rules do not restrict or limit an owner's right to his or her real property that would otherwise exist in the absence of this action.

Summary of Changes made in the Proposed Rules after Comments

After reviewing comments received during the public comment period, the Commission: 1) revised the definition of "Commission" in proposed §675.20(1) to more closely conform to the definition in Texas law; 2) deleted the definition of "Compact waste disposal facility" in proposed §675.20(5) and renumbered subsequent paragraphs as appropriate; 3) reworded §675.21(j)(3) to change the methodology for consultation on minor amendments; 4) reworded §675.21(j)(4) to allow for the possibility that certain dates might not be known to persons making a report at the time the report is due at the Commission offices; 5) revised §675.22(b)(1) to recognize that certain information required to be reported would be reported after the fact rather than prospectively; 6) revised Annex A in §675.23(e)(1) in an effort to make it more user friendly; 7) reworded §675.23(l)(3) to change the

methodology for consultation on minor amendments; and, 8) revised certain reporting requirements in §675.23(m).

Public Comment

The public comment period on the proposed rules opened on May 8, 2015 and extended through midnight on June 22, 2015.

The Rules Committee of the Commission conducted a public meeting on the proposed amendments on May 29, 2015 at 9:30 a.m. in the Bluebonnet Room of the Doubletree Suites located at 303 West 15th Street, Austin, Texas 78701.

During the public comment period, the Commission received written comments from Advocates for Responsible Disposal in Texas (ARDT), Energy Solutions (ES), Waste Control Specialists (WCS), Kenneth Krieger (KK), and John Hageman (JH).

Summary and Response to Comments

COMMENT regarding proposed §675.20(1) -- WCS suggested that the definition of "Commission" provided should be replaced with the definition included in Texas Health and Safety Code (THSC), §403.0005(1) to conform to the definition provided in the THSC.

COMMISSION RESPONSE: The Commission agrees that confusion should be avoided and has amended the proposed definition in §675.20(1) to add the phrase "established by the Texas Low-Level Radioactive Waste Disposal Compact."

COMMENT regarding proposed §675.20(3) and (5) -- WCS and ES suggested that having closely related definitions of "Compact Facility" and "Facility" (paragraph (3)) on one hand and of "Compact Waste Disposal Facility" (paragraph (5)) on the other is confusing. WCS suggested deleting paragraph (5). ES suggested deleting paragraph (3).

COMMISSION RESPONSE: The Commission agrees that for the purposes of these rules, having two closely related definitions may be confusing. Accordingly, the Commission will delete paragraph (5) and retain paragraph (3) on the basis that paragraph (3) is the broader term and that it conforms to the definition in host-state law.

COMMENT regarding proposed §675.20(4) and (17) -- WCS suggested modifying the definition of "compact waste" (proposed paragraph (4)) to equate that term with "party-state waste" (proposed paragraph (17)) and eliminating the separate definition of "party-state waste."

COMMISSION RESPONSE: The Commission believes that both definitions may be useful and respectfully declines to make a change based on this comment.

COMMENT regarding proposed §675.20(9) -- WCS suggested replacing proposed paragraph (9), the definition of "generator" with the following: "a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the Commission." ES suggested that paragraph (9)(A)(vi) and (vii) be revised to include processors who become the legal generators of the waste, in part, to be consistent with Nuclear Regulatory Commission attribution rules, specifically Appendix G to 10 Code of Federal Regulations 20. KK suggested that proposed paragraph (9)(B) be modified so that all waste received by the types of entities listed before April 27, 2012 be deemed to be in-compact waste.

In his view, this is important to encourage entities who have held on to waste for a long time to dispose of it safely.

COMMISSION RESPONSE: The Commission notes that, while it is possible that some of the issues raised by the commenters may be relevant when the Commission conducts a rulemaking related to certain kinds of low-level radioactive waste, the Commission believes that, in the meantime, the carefully crafted definition of "generator" and the related methods for the determination of the identity of generators contained in proposed §675.20(9) are important for the ongoing operations of the Commission. The Commission respectfully declines to make any changes based on these comments.

COMMENT regarding proposed §675.20(13) -- ES suggested that volume reduction be included in the definition of the term "management."

COMMISSION RESPONSE: The Commission notes that rules related to volume reduction are in the province of the Texas Commission on Environmental Quality in accordance with Texas law and does not agree that it is appropriate to introduce the concept of volume reduction into its rule defining the term "management." The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding §675.20 -- ES suggested that the "Commission's Technical Committee" be defined in this rule.

COMMISSION RESPONSE: The Commission has generalized the wording of §675.21(j)(3) and §675.23(l)(3) so that the term "Technical Committee" is no longer included in the rules as finally adopted.

COMMENT regarding proposed amendment to §675.21 -- ES suggested that the word "permit" be replaced throughout the rule with the word "petition" for clarity.

COMMISSION RESPONSE: The Commission respectfully does not agree with this suggestion. A "petition" is a document that is filed by a petitioner requesting permission to export waste. Therefore, the granted permission takes the form of a "permit" to export waste. The Commission believes that the rule would be more confusing, not less, if both documents were referred to as a petition and respectfully declines to make any change based on this comment.

COMMENT regarding proposed amendment to §675.21(b) -- ARDT suggested that the definition of "petitioner" should be moved to §675.20, to be included with the other definitions.

COMMISSION RESPONSE: The Commission believes that, in this particular instance, the definition should remain in the only rule in which it is used and respectfully declines to make any change based on this comment.

COMMENT regarding proposed amendment to §675.21(c) -- ARDT suggested that the subsection be modified to require submission of a petition or request to amend an order approving exportation of waste by either electronic mail or by UPS or FedEx, as is the case with reports required in §675.22(b).

COMMISSION RESPONSE: The Commission believes that, to ensure timely consideration of petitions to export and requests to amend orders approving exportation of party-state waste, it is necessary to require both types of service. The situation with respect to submission of petitions or requests to amend under §675.21(c) is more directly analogous to the submission of applications for importation agreements pursuant to §675.23(f) than

to filing reports under §675.2(b). The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding proposed amendment to §675.21(g) -- WCS suggested that the rule provide that the Commission will act on petitions for exportation within 90 days after the petitions are posted to the Commission's website.

COMMISSION RESPONSE: While the Commission fully expects to act within 90 days of the posting of a petition on the Commission's website, it does not agree that it is appropriate to create artificial deadlines that could unnecessarily complicate matters in some situations. The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding proposed amendment to §675.21(g)(1) -- ARDT suggested that the specific radionuclides listing in the form on the Commission's website should be eliminated so that the form conforms to this subsection as amended.

COMMISSION RESPONSE: It is not intended at this time that specific radionuclides be required to be listed in the application form. No change needs to be made with regard to this comment.

COMMENT regarding proposed amendment to §675.21(g)(10) -- WCS suggested deleting proposed subsection (g)(10) because the Commission is not a party to rate case proceedings, and that consideration of the elements in subsection (g)(4) related to economic impact should be sufficient.

COMMISSION RESPONSE: The Commission believes that it is important to consider all information that can be made available to it when it makes a decision with respect to export of waste to a non-party state for disposal and respectfully declines to make any change based on this comment.

COMMENT regarding proposed amendment to §675.21(g) -- WCS suggested adding a paragraph to subsection (g) permitting the Commission to consider whether the waste to be exported is "acceptable at the Compact Waste Facility." In connection with this suggestion, WCS notes that consideration of paragraph (11) ("projected effect on preservation of Compact Facility capacity for the party states") could always result in a conclusion favorable to exporting the waste.

COMMISSION RESPONSE: The Commission notes that §675.21(g)(1) - (12) calls for the consideration of a broad array of factors before reaching a decision with respect to an export petition and that, under §675.21(g)(12), the Commission may consider any other factor that it deems relevant to carry out the policy and purpose of the Compact. The Commission believes that an even-handed consideration of all elements set out in §675.21(g) will result in a fair result and respectfully declines to make any change based on this recommendation.

COMMENT regarding proposed amendment to §675.21(j)(4) -- ARDT suggested that this subsection be modified to eliminate the requirement that the generator include in the report the date or dates on which the exported waste was delivered to the disposal facility. ARDT contends that, if the waste is sent to a processor, the generator cannot comply with this requirement because the waste processor determines the shipment date.

COMMISSION RESPONSE: The Commission accepts this comment and has changed §675.21(j)(4) to provide that dates will be provided to the Commission by the permittee when the dates are available to the permittee.

COMMENT regarding proposed amendment to §675.22(b)(1) -- ARDT suggested that this subsection should be modified to reflect that the waste has actually been exported at this point.

COMMISSION RESPONSE: The Commission agrees with this suggestion and has modified the rule accordingly.

COMMENT regarding proposed amendment to §675.22(c) -- WCS suggested that the Commission clarify what reporting is required by promulgating a form to be used to satisfy the requirements of subsection (c). WCS also suggested that the Commission include in the subsection a reference to TCEQ's commingling rules.

COMMISSION RESPONSE: The Commission will consider whether to promulgate a form to be used in making this report and whether to include in the form some requirements related to TCEQ's commingling rules.

COMMENT regarding proposed amendment to §675.23 -- ES commented that, even with amendments, the rule does not properly address or resolve issues related to the importation of waste for disposal at the WCS "exempt" cell. Among other issues it raised, ES asserts that the Compact and the Commission's own rules require that §675.23 include the Commission's controls on "importation of low level waste for reclassification and disposal in the WCS's exempt cell."

COMMISSION RESPONSE: While the Commission may or may not agree with any or all of the considerations raised by ES with regard to what it refers to as "WCS's exempt cell," the Commission has made it clear that it intends to address at least some of the issues in a future rulemaking. During that rulemaking, the Commission will welcome comments from all interested parties. The Commission respectfully declines to take any action with respect to this set of recommendations by ES at this time.

COMMENT regarding proposed amendment to §675.23(b) -- ARDT suggested that this subsection should refer to Texas, as well as to Vermont. ARDT also commented that deleting the requirement that the Commission issue a report at least every 5 years establishing the Compact Facility's disposal capacity was unacceptable to Texas generators, who believe that the report is required to guarantee in-compact generators unlimited access to the Facility as stipulated in Article IV, section 4.01 of the Compact. ES commented that it was unclear what is meant by the term "Compact." It also generally comments that the Commission should be "making decisions based on constructed volume of the facility as opposed to approved expansion volumes of the facility."

COMMISSION RESPONSE: The Commission believes that the capacity rights of Texas generators are protected totally by the Compact as defined in §675.20(2). The Compact, in Article 4, section 4.01, provides that the host state shall have unlimited use of the facility over its operating life. In addition, nothing about the issuance of a report would guarantee any generator any degree of access to the Facility; the Compact itself guarantees Texas unlimited access. The Commission further notes that the Texas Commission on Environmental Quality is tasked by statute to provide a capacity study. The Commission respectfully declines to make any changes based on this recommendation.

COMMENT regarding proposed elimination of prior section §675.23(d) -- ES commented that Commission should "continue to track closely the capacity remaining for Texas and Vermont based on constructed landfill capacity, not on the approved expansion volume." It suggests that the Commission restore

prior §675.23(d) to the proposed amended rule and "require a more rigorous tracking of imported vs. party state waste, and encourage the industry norm of volume reduction."

COMMISSION RESPONSE: The Commission does not agree that prior §675.23(d) should be restored. The Commission believes that the issues covered by prior §675.23(d) are covered adequately by proposed §675.23(i)(5) and (11). The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding proposed amendment to §675.23(e), Annex A -- WCS suggested eliminating the question concerning sealed sources in Section III because, under the sealed source packaging criteria of WCS's license, sealed sources will not be commingled with any other waste type.

COMMISSION RESPONSE: The Commission believes that it is important that its records reflect the use of sealed sources even though WCS's license may preclude commingling. The Commission respectfully declines to make any changes based on this comment. The Commission has made changes of an editorial nature to Annex A to the rule as referred to at §675.23(e)(1). The changes are non-substantive and are designed to make the form easier to understand and use.

COMMENT regarding proposed amendment to §675.23(i)(10) -- WCS suggested removal of this subsection, because the Commission is not a party to rate proceedings and WCS's comments on the economic impact of a proposed importation should be sufficient. ES commented that the Commission receives no information regarding the rates charged by the Facility Operator and wondered how the Commission had fulfilled this requirement in the past and would analyze and review future requests.

COMMISSION RESPONSE: The Commission does not agree with the change suggested by WCS. The Commission has a duty to the party states to consider the economic consequence of an importation agreement on rates to be charged party-state generators for disposal of their waste. The Commission respectfully declines to make any changes based on these comments.

COMMENT regarding proposed amendment to §675.23(i)(11) -- WCS suggested that the Commission approve agreements for the importation of more curies per year than the annual limit and monitor the disposal of actual curies during the course of the year because generators base their requests for agreements on estimated curie counts.

COMMISSION RESPONSE: The Commission believes that the current system is preferable because it requires more precision in the application process. The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding proposed amendment to §675.23(l)(3) -- WCS suggested that the Commission's power to approve minor amendments to importation agreements be delegated to the Commission's executive director. WCS also suggested that changes of 10% or less in volume or curie amounts originally approved and that are also below 125 cubic feet and 125 curies, be considered a minor amendment.

COMMISSION RESPONSE: The Commission does not agree that it would be appropriate to delegate final authority to approve minor amendments to one person. The Commission believes that the proposed wording of the rule provides sufficient flexibility to approve minor amendments without the necessity of a Commission meeting. The Commission does not believe that it is appropriate to designate a level of volume or curies that automati-

cally would be considered minor amendments at this time. The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding proposed amendment to §675.23(l)(5) -- WCS suggested reducing the posting period for amendments from 15 days to 10 days.

COMMISSION RESPONSE: The Commission does not agree that the posting period should be shortened. It believes that a 15-day period is an adequate period for public notice for a minor amendment and is short enough that it should not inconvenience an applicant. The Commission respectfully declines to make any changes based on this comment.

COMMENT regarding proposed amendment to §675.23(m) -- WCS suggested four deletions from subsection (m): removing the words "and stored" from the first sentence; removing the words "including the physical, radiological and chemical properties of the waste consistent with the identification required by the Compact Waste Facility license" from the first sentence; replacing the words "of each imported class of" with the word "the" in the second sentence; and eliminating the final sentence of the subsection.

COMMISSION RESPONSE: The Commission believes that it is important that the report continue to include for the information of the Commission the waste stored as well as the waste disposed during the quarter being reported. The Commission concurs that it is not necessary that the report include certain physical, radiological and chemical properties as required by the rule now in effect. The Commission believes it is important that the classes of waste disposed continue to be reported to it on a quarterly basis. The Commission believes that quarterly information concerning activities at the Compact Facility should be available to the public and will publish such information (including information reported by WCS and information obtained from the Texas Commission on Environmental Quality) on its website. The Commission has revised §675.23(m) in accordance with this response.

COMMENT regarding proposed amendment to §675.23(n) -- WCS suggested that the subsection be modified to permit all generators, not just small quantity generators, to use brokers.

COMMISSION RESPONSE: The Commission believes that the use of brokers should be limited to small quantity generators in light of THSC, §401.207(j). The Commission respectfully declines to make any changes based on this comment.

COMMENT: JH suggested that the rules be modified to allow for the possibility that radioactive material could come into the party states not as waste, but as useful radioactive material and then, at some later point, be declared waste by the person possessing it. JH did not identify any specific rule that JH believed should be changed.

COMMISSION RESPONSE: The Commission believes that the proposed rules and rule amendments address this situation, such that none of them need to be amended to address it. The Commission respectfully declines to make any changes based on this comment.

While comments were made and have been responded to that request changes and in some cases may express opposition to particular provisions as proposed, the Commission does not find that any person or entity commenting on the proposed rulemaking as published in the May 8, 2015, issue of the *Texas Register* is opposed generally to the adoption of the amendments to the Commission rules published on that date.

No written comments were submitted to the Rules Committee at the Public Meeting conducted on May 29, 2015.

Concise Restatement of Statutory Authority

Section 675.21 was adopted under P.L. 105-236 and THSC, Chapter 403 (Compact §3.05(4)), which grants the Commission rulemaking authority to carry out the terms of the Compact, and under §§3.05(7), 6.01, and 6.03 of the Compact, which authorizes the Commission to monitor the exportation of low-level radioactive waste and prohibit unauthorized exportation of waste. The amendment to §675.21 is adopted by the Commission pursuant to the same statutory authority.

Section 675.22 was adopted under P.L. 105-236 and THSC, Chapter 403 (Compact §3.05(4)), which grants the Commission rulemaking authority to carry out the terms of the Compact, and under §3.05(8) of the Compact, which authorizes the Commission to monitor the exportation of waste for the sole purpose of management or processing. The amendment to §675.22 is adopted by the Commission pursuant to the same statutory authority.

Section 675.23 was adopted under P.L. 105-236 and THSC, Chapter 403 (Compact §3.05(4)), which grants the Commission rulemaking authority to carry out the terms of the Compact, and under §§3.05(6), 6.02, and 6.03 of the Compact, which authorize the Commission to enter into an agreement for the importation of low-level radioactive waste into the compact for disposal and prohibit unauthorized importation of waste. The amendment to §67.23 is adopted by the Commission pursuant to the same statutory authority.

New §675.20 is adopted pursuant to P.L. 105-236 and THSC, Chapter 403 (Compact §3.05(4)) which grants the Commission the rulemaking authority to carry out the terms of the Compact.

§675.20. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) The term "Commission," where used in this subchapter, means the Texas Low-Level Radioactive Waste Disposal Compact Commission established by the Texas Low-Level Radioactive Waste Disposal Compact.

(2) The term "Compact" refers to the agreement between the State of Texas and the State of Vermont to which Congress consented in Public Law 105-236, enacted September 20, 1998. The text of the Compact can be found in Texas Health and Safety Code, §403.006 and Vermont Statutes Annotated Title 10, §7069.

(3) The terms "Compact Facility" and "Facility" mean any site, location, structure, or property located in and provided by the host state for the purpose of disposal of low-level radioactive waste for which the party states are responsible.

(4) "Compact waste" means low-level radioactive waste that:

(A) is originally generated onsite in a host state or a party state; or

(B) is not generated in a host state or a party state but has been approved for importation into this state by the Commission under §3.05 of the Compact.

(5) The word "days" shall mean calendar days unless the rule in which it is used specifies otherwise.

(6) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

(7) The term "generate," when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(8) The term "generator" means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the Commission. For purposes of this subchapter, the identity of a "generator" shall be determined in accordance with the following:

(A) For low-level radioactive waste acquired on or after April 27, 2012, and that is not of international origin:

(i) if a licensed manufacturer of sealed sources or devices chooses to accept from a customer a sealed source or device that it (or an entity that it acquired) manufactured, the manufacturer may declare that it is the generator when that source or device is disposed;

(ii) if a licensed manufacturer of sealed sources or devices accepts from a customer a sealed source or device manufactured by another entity, the customer will be considered the generator of the source or device when it is disposed;

(iii) if a licensed initial distributor of radioactive sealed sources or devices chooses to accept from a customer a sealed source or device that it distributed, the initial distributor may declare that it is the generator of that source or device when it is disposed;

(iv) if a licensed initial distributor of radioactive sealed sources or devices chooses to accept from a customer a sealed source or device that the distributor did not distribute, the customer will be considered the generator of the source or device when it is disposed;

(v) if a licensed distributor other than the initial distributor of the radioactive sealed sources or devices chooses to accept from a customer a sealed source or device, the customer will be considered the generator of that source or device when it is disposed;

(vi) if a licensed waste broker or waste processor chooses to accept radioactive materials from any customer, the customer will be considered the generator of those materials when they are disposed; and

(vii) when a licensed decontamination service provider provides decontamination services to any customer, the customer will be considered the generator of any waste generated by the provision of the decontamination service.

(B) A waste broker, waste processor, initial distributor, other distributor, decontamination service provider, or licensed manufacturer of sealed sources or devices who received radioactive materials from a customer before April 27, 2012 may complete TCEQ Form 20225 as the generator of that waste if it provides adequate documentation that the waste is not of international origin. Such waste may only be disposed of in the Compact Facility as party-state (in-compact) waste if the entity acting as the generator of the waste provides adequate documentation that the waste is from Texas or Vermont. If the entity acting as the generator of the waste cannot adequately document that the waste is from Texas or Vermont, the waste will be treated as non-party-state (out-of-compact) waste and will require import authorization in accordance with §675.23 of this title (relating to Importation of Waste from a Non-Party Generator for Disposal). To provide

the documentation described in this subparagraph, the entity acting as the generator of the waste may rely on various records, including, but not limited to, source/device leak tests, source/device inventories, transfer/receipt records, transportation manifests, purchasing records, or other records determined by the Commission to be suitable as documentation regarding the origin of the waste.

(C) If the customer of a waste broker, waste processor, initial distributor, other distributor, decontamination service provider, or licensed manufacturer of sealed sources or devices is considered the generator of waste under subparagraph (A) of this paragraph, the waste may not be disposed of in the Compact Facility unless the customer is a public, private or governmental entity located in the United States or a territory of the United States. The waste will be considered party-state waste (in-compact) only if the customer is located in Texas or Vermont; if the customer is located in any other state or territory of the United States, the waste will be considered non-party state waste (out-of-compact).

(D) If a licensed user, initial distributor, or manufacturer of sealed sources or devices is a generator of waste, that waste may be disposed of in the Compact Facility only if the generator is a public, private or governmental entity located in the United States.

(9) "Host county" means a county in the host state in which a disposal facility is located or is being developed.

(10) "Host state" means a party state in which a Compact Facility is located or is being developed. The state of Texas is the host state under the Compact.

(11) "Low-level radioactive waste" has the same meaning as that term is defined in Section 2(9) of the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 United States Code, §2021b(9)), or in the host state statute so long as the waste is not incompatible with disposal at the Compact Facility.

(12) "Management" means collection, consolidation, storage, packaging, or treatment.

(13) "Non-party compact waste" means low-level radioactive waste imported from a state other than a party state as authorized by §3.05(6) of the Compact.

(14) "Operator" means a person who operates a disposal facility.

(15) "Party state" means any state that has become a party in accordance with Article VII of the Compact. Texas and Vermont are the party states to the Compact.

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

(17) "Person" means an individual, corporation, partnership, or other legal entity, whether public or private.

(18) A "small quantity generator" is a generator of low-level radioactive waste who generates no more than 100 cubic feet of such waste per year, provided that the curie level of such waste is minimal as compared to the curie limit in the Compact Facility's license as determined by the Commission.

(19) The acronym "TCEQ" means the Texas Commission on Environmental Quality and any successor entity.

(20) A "transporter" is a person who transports low-level radioactive waste.

(21) "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.

§675.21. Exportation of Waste to a Non-Party State for Disposal.

(a) Permit Required--No low-level radioactive waste generated within a party state shall be exported for disposal in a non-party state unless the Commission has issued an export permit allowing the exportation of that waste pursuant to this section.

(b) Petition Required--The term "petitioner" shall include a person who is a generator, a broker acting on behalf of one or more generators, an authorized representative of the Department of Defense, or the host state (when proposing to export low-level radioactive waste to a low-level radioactive waste disposal facility outside the party states). Each petitioner shall submit a petition for an export permit to the Commission.

(c) Form of Petition--The petition or a request to amend a permit shall be in writing and on a form promulgated by the Commission and posted on the Commission's website. A petitioner must submit its petition or request to amend a permit to the Commission and to the Compact Facility both by electronic mail and by United Parcel Service (UPS) or FedEx delivery service.

(d) Petitioners must receive the Commission's permission to export before exporting any waste out of the party states. No petition for the exportation of Class B or Class C waste for disposal in a non-party state will be approved unless the petitioner can show good cause.

(e) Notice of Petition--Export petitions submitted to the Commission will be posted to the Commission's website within five business days of their submission.

(f) Any person may submit comments on an export petition to the Commission by electronic mail or by sending a hard copy of the comments to the Commission using the UPS or FedEx delivery service. The Commission will consider all comments received at least one week before the meeting at which it considers action on the petition. The Commission may, but shall not be bound to, consider comments submitted less than one week before such a meeting.

(g) Review of Petition--After receiving the export petition and any comments about the petition, the Commission shall, no earlier than 30 days after the petition is posted and no later than 120 days after the petition is posted, act on the export petition, considering the following factors:

(1) The volume of waste proposed for exportation, the type of waste proposed for exportation by the generator, the approximate radioactivity of the waste, the time of the proposed exportation, and the location and name of the facility that will receive the waste for treatment and ultimate disposal;

(2) The policy and purpose of the Compact;

(3) The availability of the Compact Facility for the disposal of the waste involved;

(4) The economic impact on the host county, the host state, and the Compact Facility Operator of granting the export permit;

(5) The economic impact on the petitioner;

(6) Whether the low-level radioactive waste disposal compact or the state unaffiliated with such a compact in which the proposed disposal facility is located authorizes the importation of the waste being exported from the party state or states;

(7) The existence of unresolved violations associated with radioactive waste receipt, handling, processing, or transportation pending against the petitioner with any other regulatory agency with juris-

diction to regulate radioactive material, and any comments by the regulatory agency with which the petitioner has such unresolved violations;

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

(9) Any relevant comments received from any interested person;

(10) The projected effect, if any, on the rates to be charged for disposal of in-compact waste;

(11) The projected effect on preservation of Compact Facility capacity for the party states; and

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

(h) Decision by the Commission--The Commission may: approve the export petition in whole or in part; deny the export petition in whole or in part; approve the export petition subject to terms and conditions selected by the Commission and included in the export permit; or request additional information needed for a decision. The Commission's decision to approve or deny the petition, either in whole or in part, or to approve the petition subject to the Commission's terms and conditions, is final without the filing of a motion for rehearing.

(i) Terms and Conditions--The Commission may include any reasonable terms or conditions in the export permit that it deems appropriate or necessary.

(j) Permit Duration, Amendment, Revocation, Reporting, and Assignment.

(1) An export permit shall be issued for the term specified in the permit and shall remain in effect for that term unless amended, revoked, or canceled by the Commission. The specified term in the export permit shall not authorize shipments of waste by the petitioner to occur beyond the end of the fiscal year for which the export permit is approved.

(2) The Commission may add requirements or limitations to or delete requirements or limitations from the permit. Before doing so, the Commission will provide the permit holder and the Compact Facility Operator five business days' notice, so that they may comment on the proposed amendments to the permit. The Commission may also provide the permit holder a reasonable time to make any changes necessary to comply with the additional requirements or limitations imposed by the Commission. No exports will be allowed under any amended export permit until:

(A) the amendment to the export permit has been executed by both the permittee and the Commission; and

(B) the permittee has made any changes necessary to comply with any additional requirements that the Commission has imposed.

(3) The Commission's Chair or his or her delegate may review applications for amendments and, in consultation with a committee of the Commission or other persons employed by or retained by the Commission for the purpose approve minor amendments without a vote of the entire Commission, although the Chair or his or her delegate has the discretion to refer an application for an amendment to the full Commission for a decision. Notwithstanding the foregoing, the Commission will not approve an amendment that will extend the date on which an export permit expires beyond the end of a fiscal year.

(4) Not later than October 31 of each calendar year, a person who holds an export permit shall file with the Commission a report concerning the waste exported in the immediately preceding pe-

riod from September 1 to August 31. The report shall specify the volume of low-level radioactive waste actually exported for disposal, the total radioactivity of the waste exported, the date or dates on which the waste was exported, and the name and location of the disposal facility to which the exported waste was delivered, along with the date or dates on which it was delivered to that facility. If the dates of exportation and the dates of delivery are not available at the time the report is due, the permittee will make the dates available to the Commission within 10 days of those dates being made available to the permittee. Failure to timely file this report may result in denial of future export petitions.

(5) An export permit is not assignable or transferable to any other person.

(k) Agreements to Export--Nothing in this subchapter shall limit the authority of the Commission to enter into agreements with the United States, other regional compact commissions, or individual states for the exportation or management of low-level radioactive waste. Nothing in this subchapter shall be construed to prohibit the storage or management of low-level radioactive waste by an in-compact generator, or its disposal pursuant to 10 Code of Federal Regulations §20.2002.

§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.

(a) Where the sole purpose of the exportation of low-level radioactive waste is to manage or process the waste for recycling or waste reduction and to return the waste to the party states for disposal in the Compact Facility, party-state generators are not required to obtain an export permit.

(b) The generator exporting such waste must, however, file a report with the Commission no later than 10 days after the shipment of the waste described in subsection (a) of this section. Reports may be submitted by United Parcel Service (UPS), FedEx delivery service, or by e-mail. A generator may satisfy the reporting requirement by timely submitting to the Commission Forms 540 and 541 promulgated by the United States Nuclear Regulatory Commission, as applicable, with supplemental data indicating the types of waste management employed at the facility to which the waste is being shipped. Alternatively, generator reports shall include the following information:

(1) The volume of waste exported, the type, physical and chemical form of waste exported, the approximate radioactivity of the waste, and the specific radionuclides contained therein;

(2) The location and name of waste processing facility or facilities receiving and processing the waste, the type of waste management employed at each waste management facility, and whether the exported waste is to be mixed or commingled with waste from other generators.

(c) When the exported waste is either returned to the generator or shipped to the Compact Facility, the generator shall file a report informing the Commission of the volume, physical form, and activity of the waste returned to the party-state generator or shipped to the Compact Facility. The generator may rely on information provided to it by the processor who ships the waste back to the Compact Facility when making its report.

§675.23. Importation of Waste from a Non-Party Generator for Disposal.

(a) It is the policy of the Commission to:

(1) promote the health, safety, and welfare of the citizens and the environment of Texas and Vermont;

(2) limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste;

(3) distribute the costs, benefits, and obligations among the party states; and

(4) refuse to allow the importation of low-level radioactive waste of international origin for disposal at the Compact Facility.

(b) Vermont's disposal capacity reserve is 20% of the Compact Facility maximum volume as stated in the Compact, and this capacity shall not be reduced by non-party waste. The Commission will utilize the volumetric and curie limits set out in Texas Health and Safety Code (THSC), §401.207, as guidelines with respect to authorizing the importation of waste.

(c) If any state other than Texas or Vermont becomes a member of the Compact in accordance with Article VII of the Compact, the waste from that state or states shall be deposited in space reserved for non-party compact waste, to the extent such space is available at the time the waste is to be deposited; in no event shall waste from that state be deposited in space reserved for waste generated in Texas or Vermont.

(d) Agreement Required. No person shall import any low-level radioactive 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 section. 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 Import Application and Terms of Import Agreement. Annex A in paragraph (1) of this subsection sets out the form that must be completed by an applicant to import low-level radioactive waste. The form will also be posted on the Commission's website and may contain minor modifications. The act of submitting an application means that the applicant is willing to enter into an agreement with the Commission containing at a minimum the terms set forth in the Term Sheet which is Annex B in paragraph (2) of this subsection.

(1) Annex A.

Figure: 31 TAC §675.23(e)(1)

(2) Annex B.

Figure: 31 TAC §675.23(e)(2)

(f) Submission of an Application for an Import Agreement. A person who is a generator, a broker acting on behalf of one or more small quantity generators, or an authorized representative of the Department of Defense shall submit an application to the Commission by electronic mail; an additional copy of the application must also be sent to the Commission through the United Parcel Service (UPS) or FedEx delivery service. The applicant may not ship any waste for disposal under the importation agreement sought until the Commission has formally elected to enter into an agreement with the applicant and both parties have executed the agreement. In addition, the applicant shall:

(1) certify that the waste acceptance criteria promulgated by the Texas Commission on Environmental Quality (TCEQ) will be met for the proposed waste importation; and

(2) deliver to the Compact Facility Operator and TCEQ a copy of the application (and any supplements or amendments thereto) by electronic mail at the same time the applicant submits the application to the Commission. The applicant must also send a hard copy of the application to the Compact Facility Operator and TCEQ through the UPS or FedEx delivery service.

(g) Notice of Applications for Import Agreements. All applications for import agreements will be posted to the Commission's website within five business days of their submission.

(h) Comments on Applications for Import Agreements. Any person may submit comments on an application for an import agreement by electronic mail or by use of the UPS or FedEx delivery service after the application is posted on the Commission's website. The Commission will consider all comments received at least one week before the meeting at which it considers action on the application. The Commission may, but shall not be bound to, consider comments submitted less than one week before such a meeting.

(i) Review of Applications for Import Agreements. The Commission, a committee of the Commission, or other persons employed or retained by the Commission shall, after the posting of the application for an import agreement on the Commission's website, review the application for an import agreement utilizing the following factors:

(1) The volume, type, physical form, and total radioactivity of the waste proposed for importation;

(2) The policy and purpose of the Compact, as set out in Public Law 105-236, a federal law known as the "Texas Low-Level Radioactive Waste Disposal Compact Consent Act"; in THSC, §403.006, the Texas Low-Level Radioactive Waste Disposal Compact; and 10 V.S.A. §7069, the Texas Low-Level Radioactive Waste Disposal Compact;

(3) The economic impact, including both potential benefits and liabilities, on the host county, the host state, other party states, the in-compact generators, and the Compact Facility Operator of entering into the import agreement;

(4) Whether the Compact Facility Operator has obtained authorization from TCEQ to dispose of the proposed waste;

(5) The effect of the Commission's approval of the proposed import agreement on the Compact Facility's total annual volume;

(6) The existence of unresolved violations associated with radioactive waste receipt, storage, handling, management, processing, or transportation pending against the applicant with any other regulatory agency with jurisdiction to regulate radioactive material, and any comments by the regulatory agency with which the applicant has unresolved violations;

(7) Any unresolved violation, complaint, unpaid fees, or past due report that the applicant has with the Commission;

(8) Any relevant comments received from any person;

(9) The generator of the waste and any necessary authorization of an applicant to export;

(10) The projected effect on the rates to be charged for disposal of party-state compact waste;

(11) 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 THSC, §401.207;

(12) To the extent applicable, compliance with the rules related to commingling adopted by TCEQ in coordination with the Commission pursuant to THSC, §401.207(k); and

(13) Any other factor the Commission deems relevant to carry out the policy and purpose of the Compact.

(j) Decision by the Commission. No earlier than 35 days after an application is posted and no later than 100 days after it is received, the Commission shall take one of the following actions on the applica-

tion 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's decision to approve in whole or in part, deny, or approve subject to terms and conditions is final without the filing of a motion for rehearing. However, after the Commission has acted on an applicant's proposed importation agreement, an applicant immediately may file another application. The Commission may deny an application for any of the following reasons:

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

(2) The waste destined for the facility is not in accord with the license issued by TCEQ to the Compact Facility;

(3) The shipment potentially contains waste of international origin as defined in THSC, §401.2005(9); or

(4) Any other relevant issue.

(k) Terms and Conditions. The Commission may include any terms or conditions in the import agreement reasonably related to furthering the policy and purpose of the Compact including, but not limited to, the policies referenced in subsection (a) of this section.

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

(1) An importation agreement shall remain in effect for the term specified in the agreement, which term shall end on August 31 of the fiscal year for which the agreement is approved. The importation agreement shall remain in effect as approved unless amended by agreement of the Commission and the applicant, or revoked by the Commission prior to importation. A condition of every importation agreement shall be that any generator of low-level radioactive waste must agree to comply with §8.03 of the Compact. In addition, every importation agreement approved by the Commission shall include a condition requiring the Compact Facility Operator to receive written certification from the TCEQ that the waste is authorized for disposal under the license prior to the acceptance of waste under the importation agreement.

(2) The Commission may revoke or amend an agreement on its own motion or in response to an application by the agreement holder. When the Commission amends an importation agreement on its own motion, it 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. No imports shall be allowed under any amended agreement for the importation of waste until:

(A) the amendment to the importation agreement has been executed by both the Commission and the agreement holder; and

(B) the agreement holder has made any changes necessary to comply with additional requirements imposed by the Commission.

(3) The Commission's Chair or his or her delegate may review applications for minor amendments and, in consultation with a committee of the Commission or other persons employed by or retained by the Commission for the purpose, may approve them without a vote of the entire Commission, although the Chair or his or her delegate has the discretion to refer the application for the amendment to the full Commission for a decision. The following changes are considered to be minor amendments: inclusion of additional compacts or unaffiliated states, territories, possessions, or districts of the United States from which waste will be shipped; inclusion of an additional waste stream; a change in waste form; and inclusion of an additional type

of generator. If the holder of an importation agreement seeks to add points of origin of the waste to be disposed of in the Compact Facility, the agreement holder must also provide export authorization, as necessary, from a compact to which the state being added is a party. The Commission will not treat an application for amendment as a request for a minor amendment simply because the applicant has described the amendment as "minor." If the Chair or his or her delegate, in consultation with a committee of the Commission or other persons employed by or retained by the Commission for the purpose, decides that an application purporting to be an application for a minor amendment is actually an application for a major amendment, the Commission will return the application to the applicant who may resubmit the application as an application for a major amendment.

(4) Notice of Applications for Amendments to Import Agreements. All applications for amendments to import agreements, including applications for minor amendments, shall be posted to the Commission's website within five business days of their submission.

(5) Commission Decisions on Applications for Amendments to Import Agreements. If an application is for a minor amendment, neither the Chair nor his or her delegate will act on the application before the 15th calendar day after the posting of the application for amendment. The Commission will act on applications for major amendments in the same manner that it acts on original applications for import agreements and within the same time period. An import agreement is not assignable or transferable to any other person. The Commission's action, or that of the Chair or his or her delegate, on an application for amendment to an import agreement is final without the filing of a motion for rehearing.

(m) 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. 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), the state or United States Territory of origin, and the date(s) of waste disposal. 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 Commission shall publish quarterly on its website a report derived from the information provided to it by the Compact Facility Operator as well as from the TCEQ.

(n) Small Quantity Generators. A small quantity generator may use a broker to file import applications and proposed agreements with the Commission on its behalf. Such applications and proposed agreements shall comply in all respects with this section.

Legal Authority: The agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 20, 2015.

TRD-201503248

Leigh Ing

Executive Director

Texas Low-Level Radioactive Waste Disposal Compact Commission

Effective date: September 9, 2015

Proposal publication date: May 8, 2015

For further information, please call: (512) 239-6087



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 12. TEXAS BOARD OF OCCUPATIONAL THERAPY EXAMINERS

CHAPTER 367. CONTINUING EDUCATION

40 TAC §367.1, §367.3

The Texas Board of Occupational Therapy Examiners adopts amendments to §367.1, concerning continuing education, and §367.3, concerning the continuing education audit, without changes to the proposed text as published in the May 29, 2015, issue of the *Texas Register* (40 TexReg 3104). The rules will not be republished.

The amendment to §367.1 will allow for licensees to repeat courses as long as such are in accordance with the criteria established by the amendment. The amendment to §367.3 will clarify documentation requirements and the required information documentation must contain as it regards continuing education requirements.

The amendment to §367.1 clarifies requirements for continuing education and adds the provision that each continuing education activity may be counted only one time in two renewal cycles or a total of four years. The adopted amendment to §367.3 clarifies requirements for the audit and for continuing education documentation. In addition, the amendment adds that the name of the authorized signer must be included on the continuing education documentation and that when continuing education units (CEUs), professional development units (PDUs), or other units or credits are listed on the documentation, such must be accompanied by documentation from the continuing education provider noting the equivalence of the units or credits in terms of contact hours.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Occupational Therapy Practice Act, Title 3, Subtitle H, Chapter 454, Occupations Code, which provides the Texas Board of Occupational Therapy Examiners with the authority to adopt rules consistent with this Act to carry out its duties in administering this Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 24, 2015.

TRD-201503355

John P. Maline

Executive Director

Texas Board of Occupational Therapy Examiners

Effective date: October 1, 2015

Proposal publication date: May 29, 2015

For further information, please call: (512) 305-6900



CHAPTER 369. DISPLAY OF LICENSES

40 TAC §369.1, §369.2

ANNEX A

TLLRWDCC §675.23—IMPORTATION FORM

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION APPLICATION FOR IMPORTATION OF NON-PARTY LOW-LEVEL RADIOACTIVE WASTE (NOTE: PURSUANT TO TEXAS HEALTH AND SAFETY CODE, §401.207(j), THIS PETITION MUST BE COMPLETED BY APPROPRIATE REPRESENTATIVES OF THE DEPARTMENT OF DEFENSE OR THE GENERATOR OF THE WASTE UNLESS THE GENERATOR IS A SMALL QUANTITY GENERATOR AS DEFINED IN 31 TAC §675.20(19), IN WHICH CASE THE PETITION MAY BE SUBMITTED BY AN APPROPRIATELY LICENSED BROKER) (Article III, Sec. 3.05(7) of the Compact)

I. Applicant Information:

Entity Name: _____

Contact Person, Title: _____

Phone: _____

Email: _____

Website: _____

Business Address: _____

Mailing Address: _____

Is applicant:

- ☐ Generator
- ☐ Broker
 - ☐ Licensed Waste Processor
 - ☐ Licensed Waste Collector
- ☐ Department of Defense

II. Generator Specifications:

A. Generator type:

- ☐ Industrial
- ☐ Academic/Research
- ☐ Medical
- ☐ Utility
- ☐ Government

B. Is waste from a "small quantity generator"?

- ☐ Yes
- ☐ No

III. Agreement Period:

Import applications generally will be granted only in single fiscal-year increments. If you are seeking a term that would extend beyond the end of a current fiscal year, please explain the unusual circumstances that would justify a deviation from this general rule?

IV. Waste proposed for importation:

Waste Volume (Cubic Feet): _____

Waste Radioactivity (Curies): _____

Waste Classification:

- ☐ Class A,
- ☐ Class B, and/or
- ☐ Class C

Waste Form

- ☐ Stable
- ☐ Unstable

Does the proposed waste consist solely of sealed sources?

- ☐ No.
- ☐ Yes.

Compact and/or unaffiliated state, territory, possession, or district of the United States where the waste was generated (please list):

Waste Description: _____

V. Compliance

Does Applicant 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 and attach applicable documents.

Does Applicant have any unresolved violation(s), complaint(s), unpaid fee(s), or past due reports associated with radioactive waste receipt, storage, handling, management, processing, or transportation pending with any other regulatory agency with jurisdiction to regulate radioactive material including, without limitation, the Texas Commission on Environmental Quality (TCEQ)?

- ☐ No.
- ☐ Yes. Please explain and attach applicable documents.

VI. Certifications

Applicant hereby certifies* the following:

- ☐ The information provided herein is complete, accurate, and correct.
- ☐ The waste proposed for importation is not waste of international origin.
- ☐ The low-level radioactive waste for which this Import 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.
- ☐ The person submitting this Import Application is authorized by the Applicant to commit Applicant to each and every obligation and condition set forth herein and in the Agreement for Importation of Non-Party Compact Waste. A copy of a written document containing such authorization must be attached to this Import Application.
- ☐ Applicant has delivered to the specified disposal facility and TCEQ a copy of this Application for Importation of Compact Waste (along with any supplement or amendment thereto).

* If any box is left unchecked, the Commission will assume that requirement was not met.

VII. Authorized Signatory:

Print or type name

Signature

Title

Date

VIII. ATTACHMENTS:

(Attachments should include all applicable licenses, authorizations, and other materials needed or useful to fully explain the Import Application.)

ANNEX B

TERMSHEET

(Minimum terms that must be addressed in any Waste Importation Agreement offered to the Texas Low-Level Radioactive Waste Disposal Compact Commission in connection with an Application to Import Waste).

- A. The proposed beginning and ending dates.
- B. Compliance with all applicable federal and state laws and rules including, without limitation, §8.03 of the Compact as compiled in Texas Health and Safety Code (THSC), Chapter 403.
- C. Liability for applicants' own acts, omissions, conduct, and relationships in accordance with applicable law.
- D. Acknowledgement that the Commission under any circumstances may amend or revoke the agreement with prior notice and that under emergency circumstances the Commission may suspend authorization to import with such notice as it is able to give under the circumstances.
- E. Agreement shall not be assignable or transferable to any other person.
- F. Agreement is subject to receipt by the Compact Facility Operator and the Commission of written certification from the Texas Commission on Environmental Quality (TCEQ) prior to the acceptance of Generator's Non-Party Compact Waste that the waste to be imported is authorized for disposal under the Compact Facility license.
- G. A description of the characteristics of the waste proposed for importation including (but not limited to) volume, type, physical form, total radioactivity, and radionuclide-specific activities.
- H. A representation by the applicant that it has disclosed:

- (1) The existence of unresolved violations pending against the applicant with any other regulatory agency with jurisdiction to regulate radioactive material.
 - (2) The existence of any unresolved violation(s), complaint(s), unpaid fee(s), or past due report(s) that the applicant has with the Commission.
 - (3) 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.
-
- I. An acknowledgement that a misrepresentation with respect to an item listed in H may result in the cancellation of the agreement.
 - J. 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.
 - K. A provision acknowledging the right of the Commission to audit or cause to be audited compliance with the agreement.
 - L. Agreement to comply to the extent applicable with the rules related to commingling adopted by the TCEQ in coordination with the Commission pursuant to THSC, §401.207(k).
 - M. An affirmation that no waste of international origin shall ever be included in the materials to be imported to the Compact Facility.
 - N. Any other matter required by 31 TAC §675.23 to be included in the agreement.