

deregistration and the due process that must be followed to attain deregistration.

§810.304. *Deregistration Eligibility.*

The council shall establish criteria to determine an individual's eligibility for early termination from the obligation to register. The council shall publish the [a] list of eligibility criteria. Prior to participating in a deregistration evaluation, the registrant must obtain approval from the council that he or she is eligible for deregistration.

§810.305. *Deregistration Decision Criteria.*

The council shall establish deregistration evaluation criteria to determine the risk level of a [the] registrant.

§810.306. *Evaluation Specialist.*

The council shall contract with licensed sex offender treatment providers to provide all deregistration evaluation services.

§810.307. *Deregistration Methodology.*

The Deregistration Evaluation Specialist shall submit the candidate's deregistration evaluation report to the council. The council shall review the report and determine if the report conforms to council criteria. The council shall certify reports that meet council criteria and send each [the] certified report back to the attorney.

§810.308. *Protocol Compliance.*

The council or its designee shall review each candidate's application and deregistration evaluation report in order to insure that these documents comply [are in compliance] with approved methodology and procedures. The council or its designee shall insure that all established requirements have been met by the candidate prior to approving the candidate to undergo a deregistration evaluation. The council or its designee shall also ensure that established deregistration evaluation criteria have been met prior to providing the candidate with the written evaluation report.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Liles Arnold

Chair

Council on Sex Offender Treatment

Earliest possible date of adoption: June 7, 2015

For further information, please call: (512) 776-6972



## 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 (TLLRWDC or Commission) proposes new §675.20 and proposes amendments to §§675.21 - 675.23.

## Background and Summary of the Factual Basis for the Proposed Rules

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 is to: a) simplify the processes by which applicants and petitioners would seek Commission action; b) simplify and clarify the language of the rules; c) amend the rule for exportation of waste to a non-party state for disposal now that the Commission has made the determination required by §3.02 of the Compact; and d) in some cases, to correct grammatical errors found in the preliminary rules.

During the time that 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, each of which will be more specifically discussed in the Section by Section Discussion in this preamble. The proposed amendments to 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 processes by which persons appearing before the Commission seek approval of their actions.

### Section by Section Discussion

The Commission proposes to change the title of Chapter 675 from "Preliminary Rules" to "Operational Rules." In addition, the Commission proposes to make 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*

The Commission proposes new §675.20 to collect the definitions of terms used in the Commission's rules into a single rule from sources such as 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 Compact).

Definitions for the majority of the terms used in the Commission's rules are specifically set out in the Compact. These terms include those defined in paragraphs (3) (as slightly modified), (7), (8), (9) (initial sentence only), (10), (11), (12) (as slightly modified), (13), (15), (16), (18), and (21). Section 675.20(3) and (12) are modified to eliminate references to management of waste. The Commission is currently conducting investigations in preparation of drafting a new rule that would address the importation of waste for the purpose of management. If it adopts such a rule, these paragraphs will likely be amended to insert the references to management of waste.

A number of paragraphs are adapted from Texas Health and Safety Code (THSC), §401.2005. Paragraph (4) is taken from THSC, §401.2005(1-a). Paragraph (14) is taken from THSC, §401.2005(6-a). Paragraph (17) is adapted from THSC, §401.2005(8). Paragraph (22) is taken from THSC, §401.2005(9).

That portion of paragraph (9) that was not taken from the Compact has been adapted from the Commission's draft White Paper of June 4, 2013, entitled "Establishing the Generator of Low-Level Radioactive Waste for the Purposes of Determining Party v. Non-Party Status for the Texas Low-Level Radioactive Waste

Disposal Compact," which draft White Paper has been posted on the Commission's website since 2013.

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

The Commission proposes to amend §675.21 to specify the procedure that must be used by a party-state generator to petition the Commission for permission to export party-state waste to a non-party state for disposal. This procedure is proposed for use going forward in lieu of the Commission's granting permits pursuant to the resolution it adopted on December 11, 2009.

The proposed rule also eliminates a provision for the payment of a fee for the processing of a petition to export waste from a party state. The Commission does not need to impose a fee for the processing of petitions because the Texas Legislature makes an appropriation to the Commission each biennium for its operations.

The proposed rule also describes generators who seek permission to export compact waste to a non-party state for disposal as "petitioners," rather than applicants. The Commission proposes this change in designation for the purpose of more readily distinguishing between in-compact generators seeking permission to export waste and out-of-compact generators (or brokers) seeking permission to send their waste to Texas for disposal at the Compact Facility.

The Commission proposes to amend subsection (g)(7) (currently subsection (f)(7)) to clarify that, as with applicants seeking to import low-level radioactive waste for disposal in the Compact Facility, the Commission considers only petitioners' unresolved violations of other regulatory entities' regulations "associated with radioactive waste receipt, handling, processing or transportation" when deciding whether they may export waste.

The Commission proposes to amend subsection (j)(1) (currently subsection (i)(1)) to reflect an allotment approach to authorizations to import and export waste. Because the Commission must track the volumes of waste disposed in the Compact Facility and the curies associated with those volumes on an operational year basis, it is transitioning to the issuance of permits to export party-state waste and the execution of agreements to import out-of-compact waste for disposal at the Compact Facility that terminate at the end of the Facility's operational year, i.e., on August 31 of each year. Petitioners and applicants are not prohibited from seeking authority to export party-state waste or import out-of-compact waste for disposal in future operational years.

The Commission proposes to delete §675.21(k) and, instead, refer to the form to be completed by a petitioner seeking authority to export party-state waste in amended subsection (c). Referring to the form in that subsection eliminates the need for subsection (k).

The Commission proposes to delete §675.21(l) because it has now made the determination required by Compact section 3.02. As a result, there is no longer any need for the Commission to consider petitions for permits under the Commission's resolution of December 11, 2009.

Finally, with respect to §675.21, the Commission proposes to delete subsection (m) because all of the defined terms in this chapter are now located in proposed new §675.20.

*§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*

Generally, the Commission proposes to amend §675.22 to clarify some of its terms and to recognize 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.

Specifically, the Commission proposes to amend subsection (a) to clarify that the rule addresses the exportation of low-level radioactive waste, as opposed to other types of waste.

The Commission proposes to amend subsection (b) to clarify that, when a party-state generator ships waste out of the Compact for management or processing, it is required to submit a report of that action to the Commission within 10 days of having shipped the waste out of the Compact. The words "must file" more clearly state that the exporting generator's duty accrues on shipment than do the words "shall be required to file." The Commission proposes also to amend subsection (b) to change the manner in which an exporting generator notifies the Commission of its exportation low-level radioactive waste for management or processing before it is returned for disposal in the Compact Facility. Currently, §675.22(b) permits party-state generators to submit reports that they have exported low-level radioactive waste for management or processing by electronic mail and by fax; amended §675.22(b) would permit such reports to be submitted to the Commission by electronic mail or by United Parcel Service (UPS) or FedEx delivery service. This change increases the likelihood that the Commission will receive timely, legible reports from the shipping generators.

The Commission proposes to amend §675.22(c) to account for those situations in which a party-state generator ships low-level radioactive waste out-of-compact for processing and management; and, instead of the waste being returned to that generator after management or processing, the waste is shipped directly from the waste manager or processor to the Compact Facility for disposal. The Commission also proposes to amend subsection (c) to permit party-state generators who have shipped low-level radioactive waste out of the compact for management or processing to rely on information provided by the out-of-compact waste manager or waste processor to make reports to the Commission about the returning waste.

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

Generally, the Commission proposes to amend §675.23 to clarify its language; reduce 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; eliminate the provision requiring the payment of a fee to the Commission on the filing of an application for an import agreement; change the manner in which applications for the importation of waste may be submitted to the Commission; provide for the delegation of certain decisions regarding amendments to existing agreements for the importation of waste to the Compact Commission Chair or his or her delegate, acting in consultation with the Commission's Technical Committee; and eliminate forms for applications and agreements from the rules.

Specifically, the Commission proposes to amend subsection (a) to more closely track the policies set out in the Compact.

The Commission proposes to amend subsection (b) to eliminate the requirement that the Commission issue a report every five years to establish the disposal capacity of the Compact Facility. The Commission will continue to recognize and protect the

portion of the Compact Facility's disposal capacity reserved for Vermont and not to be used for non-party waste.

The Commission proposes non-substantive amendments to subsection (c) to specifically require any state seeking to join the Compact to comply with the provisions of Compact Article VII.

The Commission proposes to delete subsection (d) because the Commission deems the initial portion of that subsection to be unnecessary based on the volume of waste and number of curies disposed in the Compact Facility during its first two operational years. The Commission closely monitors the volume and activity of waste disposed at the Facility; the Facility Operator provides the Commission monthly reports on the volume and activity of waste disposed at the Facility; and the Texas Commission on Environmental Quality (TCEQ) recently approved a significant expansion of the disposal capacity of the Facility. The Commission also proposes that the content of subsection (d)(2) be moved to the final sentence of the current subsection (e), which the Commission proposes to re-letter as subsection (d).

The Commission proposes to amend subsection (e) (currently subsection (f)) to simplify the proposed form of agreement for the importation of out-of-compact waste.

The Commission proposes delete subsection (g) that provides for the Commission to consider the collection of fees in connection with applications for agreements and agreements for the importation of out-of-compact waste for disposal at the Facility.

The Commission proposes to amend subsection (f) (currently subsection (h)), to alter the manner in which applications are submitted to (rather than filed with) the Commission. Formerly, applicants could submit applications by electronic mail and facsimile. The Commission proposes to allow applicants to submit their applications for import agreements by electronic mail, followed by a hard copy of the application delivered by UPS or FedEx delivery service. The proposed amendments also require the applicant to send a copy of the application to the Compact Facility Operator and to the TCEQ by both electronic mail and UPS or FedEx delivery. Subsection (f) continues to provide that no waste can be shipped by an applicant until the Commission has voted to enter into an agreement for the import of out-of-compact waste for disposal at the Compact Facility and both the Commission and the applicant have executed that agreement. The Commission also proposes that the substance now contained in subsection (f)(3) and (4) be moved to proposed subsections (g) and (h).

The Commission proposes that subsection (g) (currently subsection (f)(3)) be amended to: 1) eliminate any reference to the date on which an application is deemed received; and 2) provide that the Commission give notice of an application for amendment by posting it on the Commission's website within five business days after the Commission receives the application. As to the first change, the Commission proposes to treat documents as having been received on the earlier of: a) the date on which the Commission receives the e-mail transmitting the application; or b) on the date when UPS or FedEx delivery service delivers the hard copy of an application to the Commission. The Commission proposes to eliminate the practice of publishing applications for import agreements in the *Texas Register* because it is not aware of anyone who either: a) relies on publication of the applications for these agreements in the *Texas Register* for notice of possible Commission actions on the applications; or b) cannot access the Commission's website.

The Commission proposes that subsection (h) (currently subsection (f)(4)) be amended to eliminate the 25-day period for comment on submitted applications for amendments in favor of a provision that preserves the right of all persons to comment and be assured that their comments will be considered up to one week before a meeting at which the Commission proposes to act on an application for an import agreement. The Commission also proposes amendments that would: 1) require the Commission to consider comments submitted up to one week before the meeting at which it intends to act on a submitted application; and 2) permit the Commission to consider comments submitted less than one week before a meeting at which it intends to act on an application for an import agreement, without requiring that the Commission consider such comments.

The Commission proposes to delete from subsection (i) the restrictions on the time within which the Commission, its staff or its delegates must review any submitted applications for import agreements based on its feeling that, as long as there is a definite period within which the Commission must *act on* each application for an import agreement, the timing of review of each such application is largely irrelevant. The Commission proposes to amend subsection (i)(1) to clarify the specific information about the waste to be disposed it will consider. The Commission also proposes to amend subsection (i)(1) and (5) to eliminate the requirement that the applicant provide information about certain radionuclide-specific activities subject to subsection (d)(1). TCEQ has amended the Compact Facility's license in a manner that removes those radionuclide-specific limits, so the Commission does not need to assess that activity of the proposed waste to determine whether the waste is consistent with the waste characteristics specified in the Compact Facility's license. The Commission proposes to amend subsection (i)(2) to refer to the Compact, with references to both Texas and Vermont statutes. The Commission proposes to amend subsection (i)(6) to clarify that it considers material only violations of other regulatory bodies' regulations dealing with the receipt, storage, handling, management, processing or transportation of radioactive waste. The Commission proposes to amend subsection (i)(8) to replace the listing of entities in that paragraph with the term, defined in proposed §675.20(18), "Person," which includes all of the listed entities. The Commission proposes to amend subsection (i)(9) to clarify that it will consider the identity of the generator and the need for and receipt of any authorizations needed to export the waste from its location. The Commission proposes to amend subsection (i)(11) to refer to the entirety of THSC, §401.207, rather than only to certain subsections of that section.

The Commission proposes to amend subsection (j) to reduce the span of time within which the Commission will act on submitted applications for importation of waste for disposal. The Commission further proposes to amend the subsection to clarify that, once the Commission has decided whether to grant an import agreement application, it is considered the final action of the Commission; and that the applicant does not need to file a motion for rehearing to exhaust its administrative remedies. Third, the Commission proposes to amend subsection (j)(3) to expand the Commission's basis for denying an importation agreement application related to international waste. The current version of this subsection permits the Commission to deny an application for an import agreement because the waste proposed for disposal *does* include international waste. An applicant wishing to rid itself of waste of international origin might be inclined not to disclose that the waste proposed for importation contains international waste, given Texas' complete ban of such materials from

inclusion in the waste disposed at the Facility. In the absence of any ability to determine for itself whether the proposed waste is of international origin, the Commission proposes to amend its rule to permit it to deny an application for an import agreement if there is the possibility that the waste proposed for disposal contains waste of international origin.

The Commission proposes to amend subsection (k) solely to make the subsection clearer.

The Commission proposes to amend subsection (l)(1) to implement an allotment method of issuing permits and entering into importation agreements. Because the Commission must track the volume and activity of waste disposed in the Facility on an operational year basis, it proposes to issue exportation permits and enter into importation agreements that are for operational-year increments and terminate on August 31 of the operational year they cover. When an import agreement extends beyond the end of an operational year, additional reporting requirements are imposed on both the applicant and the Commission. The Commission's accounting task is also greatly complicated when an importation agreement does not terminate at the end of an operational year. Both of these additional responsibilities could be avoided if brokers and generators begin to apply for and obtain agreements that are tied to the Facility's operating year, rather than to the campaigns that the generator or broker anticipates conducting. The Commission proposes to amend subsection (l)(2) to clarify that, when the Commission has amended an importation agreement, no shipments may be made under the amended agreement until both the Commission and the generator have executed the agreement, and the generator has made any changes necessary to comply with the agreement as amended. The Commission proposes to add subsection (l)(3) to authorize the Chair or his or her delegate, in consultation with the Commission's Technical Committee, to decide whether applications for certain minor amendments should be granted. This is a change that was specifically requested by the Compact Facility Operator so that such decisions could be made more quickly than they are currently being made. The proposed paragraph enumerates the amendments that would be considered minor, and provides that the Commission, and not the applicant, will decide whether a requested amendment is a minor amendment. Provision is made for the return of an improperly designated application for an amendment to the applicant, so that it may refile, starting time running again for that re-application. The Commission proposes to add subsection (l)(4), which expressly provides for the posting of applications for amendments to existing import agreements on the Commission's website within five business days of their receipt. The Commission proposes to move the language of former subsection (l)(3) to be included in proposed subsection (l)(5). The Commission proposes to amend subsection (l)(5) to: a) specify the time within which the Commission (or the Chair or his or her delegate, acting in consultation with the Commission's Technical Committee) will act on applications for amendments to existing importation agreements; b) note that agreements are not assignable or transferable; and c) provide that the Commission's decision on an application is final on the date it is made, and that the applicant does not need to file a motion for rehearing to exhaust its administrative remedies. The Commission proposes to delete subsection (l)(4) regarding that the Commission will continue to consider whether to assess fees for its consideration of applications for agreements to import out-of-compact waste for disposal at the Compact Facility.

The Commission proposes to amend subsection (m) to remove language related to waste imported for management or processing because §675.23 does not relate to such waste.

The Commission proposes to amend subsection (n) to clarify that it relates to Small *Quantity* Generators, not small generators.

Finally, the Commission proposes deleting subsection (o) because all of the defined terms in this chapter are now located in proposed new §675.20.

#### Fiscal Note

Leigh Ing, the Commission's Executive Director, has determined that, for the first five-year period the proposed rules are in effect, no fiscal implications are anticipated for the Commission or for units of state or local government as a result of the administration or enforcement of the proposed rules.

#### Public Benefits and Costs

Ms. Ing has also determined that, for each year of the first five years the proposed rules would be in effect if adopted, the public benefit anticipated from the changes seen in the proposed rules will be increased clarity of purpose and greater operational efficiency.

It is anticipated that businesses and individuals will have no additional economic costs as a result of their compliance with the proposed rules.

#### Local Employment Impact Statement

The Commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules will not adversely affect a local economy for the first five years that the proposed rules will be in effect if adopted.

#### Regulatory Analysis

The Commission has determined that none of the proposed rules is a "major environmental rule" as defined by Texas Government Code, §2001.0225.

#### Small Businesses and Microbusinesses

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

#### Takings

The Commission has determined that the proposed 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.

#### Certification

The Commission certifies that the proposal has been reviewed by legal counsel and found to be within the Commission's authority to adopt.

#### Submittal of Comments

Written comments may be submitted to Leigh Ing, Executive Director, 333 Guadalupe Street, #3-240, Austin, Texas 78701 or by electronic mail to [administration@tllrwddcc.org](mailto:administration@tllrwddcc.org). All comments should reference "Rules." The Comment period closes on June 22, 2015. Copies of the proposed rulemaking can be obtained from the Commission's website at <http://www.tllrwddcc.org/rules/>. For further information, please contact Leigh Ing, Executive Director, (512) 305-8941.

## Statutory Authority

The new and amended rules are proposed under the authority granted in Texas Health and Safety Code (THSC), §401.207; and §3.05(4), (6), (7), and (8) of the Compact set out at THSC, §403.006.

No other statute is affected by this proposal.

### §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.

(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) "Compact waste disposal facility" means the low-level radioactive waste disposal facility licensed by the Texas Commission on Environmental Quality for the disposal of compact waste.

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

(7) "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.

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

(9) 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 manufac-

ured 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.

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

(11) "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.

(12) "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.

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

(14) "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.

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

(16) "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.

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

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

(19) 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.

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

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

(22) "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 [person shall export any] low-level radioactive waste generated within a party state shall be exported for disposal in a non-party [nonparty] state unless the Commission has issued an export permit allowing the exportation of that waste pursuant to this section [rule].

(b) Petition Required--The term "petitioner" shall include a person who is a [A] generator, a broker acting on behalf of one or more generators, an authorized representative of the Department of Defense, [group of generators,] 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 [to the Commission] 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. [web page, or otherwise made readily accessible to generators and to the public.]

(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.

~~[(d) Petition Fees--]~~

~~[(1) Export Petition Application Fee--A non-refundable, application fee of \$500 shall accompany the petition, except that petitioners seeking to export 100 cubic feet or less shall pay an application fee of \$50. Payments shall be made by check, money order or electronic transfer, made payable to the Texas Low-Level Radioactive Waste Disposal Compact Commission. No action shall be taken on any petition until the application fee is paid in full.]~~

~~[(2) Export Petition Evaluation Fee. In accordance with a fee schedule adopted by the Commission, an export petition evaluation fee may be assessed based on the estimated time and expenses to be incurred in evaluating and acting on the petition, if the expense exceeds the export petition application fee. This estimated fee will be communicated to the applicant prior to any action by the Commission.]~~

~~[(A) The fee schedule will be based on the estimated cost of evaluating the petition and may include, but not be limited to, these factors:]~~

~~[(i) staff expenses;]~~

~~[(ii) supplies;]~~

~~[(iii) direct and indirect expenses;]~~

~~[(iv) purchased services of consultants such as engineers, attorneys or consultants; and]~~

~~[(v) other expenses reasonably related to the evaluation.]~~

~~[(B) This fee will be due and payable within 30 days of issuance of fee bill.]~~

~~[(C) A petitioner may appeal the assessment of the fee by requesting a public hearing before the Commission within 30 days of the assessment. Such hearing shall be held as soon as practicable after the request, but no longer than 45 days after the request is received by the Commission. The Commission's order shall be issued within 30 days after the hearing. If required by Commission order, payments are due within 30 days of the final order.]~~

~~[(e) Notice and Timing of Petition--A petitioner shall file an export petition with the Commission and receive approval by the Commission prior to export. The proposed export petition shall be accompanied by a certification by the disposal facility receiving the waste that the waste acceptance criteria have been met for the proposed waste importation. By electronic mail, the petitioner shall deliver to the Compact Facility operator a copy of the export petition (and any supplements or amendments thereto) at the time of filing with the Commission, and a copy shall also be delivered by Certified mail. Upon receipt, the Commission shall post the export petition to the Commission's web~~

site and to the *Texas Register*: Any comments by the Compact Facility operator on the export petition shall be filed in writing with the Commission no later than 30 days after the date the petition was received by the Commission. By electronic mail, the Compact Facility operator shall deliver to the petitioner a copy of all comments (and any supplements or amendments thereto) submitted to the Commission at the time of filing with the Commission, and a copy shall also be delivered by Certified mail. The Commission shall distribute the export petition and comments received from the Compact Facility operator, petitioner, and public to other interested parties by mail or email for information and comment and shall post the export petition, comments received and other pertinent information on the Commission's web site. The Commission shall distribute the export petition and any comments received from the Compact Facility operator, or others, to the members of the Commission, and distribute comments from others to the Compact Facility operator and the petitioner.]

(g) [(f)] Review of Petition--After receiving the export petition and any comments about the petition [that have been made thereon], the Commission shall, [at a meeting held] no earlier [sooner] than 30 [60] days after the petition is posted and no [or] later than 120 days after the [date the export] petition is posted, [was filed with the Commission, shall] act on the export petition, considering [utilizing] 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 specific radionuclides contained therein,] the time [period] of the proposed exportation, and the location and name of the facility that[, which] 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, [Host County, the Host State,] and the Compact Facility Operator [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 [has authorization to import] the waste being exported from the party state or states [into the region in which the disposal is to take place];

(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 jurisdiction 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; [the Compact Facility, the petitioner, the Host County, the Host State, or the public; and]

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

(h) [(g)] Decision by the Commission--The Commission may [take one of the following actions on the export petition, in whole or in part]: approve the export petition in whole or in part; deny the export petition in whole or in part; [or] approve the export petition subject to terms and conditions selected [as determined] by the Commission and included [as ultimately documented] 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) [(h)] Terms and Conditions--The Commission may include any reasonable [impose any] terms or conditions in [on] the export permit that it deems appropriate or necessary [as is determined by the Commission].

(j) [(i)] 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 [more than 12 months from the date the export permit is issued].

(2) The Commission may[, on its own motion or in response to a petition for amendment from the permit holder of an export permit for which prior written notice has been given to the permit holder and the Compact Facility operator,] add requirements or limitations to or delete requirements or limitations from [to] 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 allow the existing permit holder] 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 the Commission's Technical Committee, 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) [(3)] 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 [describing the amount and type of] waste exported in the immediately preceding period from September 1 to August 31. The [form of 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 [be prescribed by the Commission and shall be available on the Commission's web site, or may be obtained at a lo-

ation that will be posted on the Commission's web site]. Failure to timely file this report may result in denial of future export petitions.

(5) [(4)] An export permit [Export Permit] is not assignable or transferable to any other person.

(k) [(j)] 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 [a] generator, or its disposal pursuant to 10 Code of Federal Regulations [CFR §20.302 (now 10 CFR) §20.2002[]].

[(k) Form of Export Permit--The Export Permit shall be on a form promulgated by the Commission and posted on the Commission's web site. The form may be amended by the Commission from time to time.]

[(l) Notwithstanding any other provision of this section, the Commission shall receive but will not begin to process applications for exportation of waste under this section by a compact generator to a non-party state for disposal until such time as the Commission determines by vote taken pursuant to §3.02 of the Compact as compiled at §403.006, Texas Health and Safety Code that it has adequate resources to properly examine applications prior to issuing permits and thereafter to enforce the terms and conditions of such permits as are issued. During the period between the adoption of this rule and the required determination pursuant to §3.02 of the Compact, permits granted pursuant to the resolution adopted by the Commission on December 11, 2009 will continue to be in effect. If, in the judgment of the Commission, circumstances warrant, new permits may be granted under the terms of that same resolution until such time as the Commission makes the required determination under §3.02 of the Compact.]

[(m) Definitions--Terms used in this subchapter shall have the meaning ascribed to them in the Compact.]

§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 [it] to the party states for disposal in the Compact Facility, party-state [party state] generators are not required to obtain an export permit.]; however,]

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

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

(2) The location and name of waste processing facility or facilities [facility(ies)] receiving and processing the waste, the type of

waste management employed at each [the] 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 [Upon return of the waste to the generator:]

[(1)] [The] generator shall file a report informing the Commission of the volume, physical form, and activity of the waste returned to the party-state [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.]; and]

[(2) The generator and the processor shall certify that the waste has not been down-blended or blended, mixed or commingled with low-level radioactive waste that was not generated in the party states, except for waste incidental to processing, and that does not exceed 5-percent of the total activity.]

§675.23. *Importation of Waste from a Non-Party [Nonparty] Generator for Disposal.*

(a) It is the policy of the Commission to: [that any financial savings and other benefits generated by importation accrue to the benefit of the party states:]

(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 [It is also the policy of the Commission that it will not accept] 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, [stated in the Radioactive Materials License dated September 10, 2009, as well as 20% of any additional maximum volume approved in a later license.] and this capacity shall not be reduced by non-party [nonparty] waste. The [Compact Facility's disposal capacity shall be established at least every 5 years by a report of the Commission. The Commission's report shall be based on relevant information including without limitation the annual report by the host State on the status of the facility, including projections of the facility's anticipated future capacity, and remaining radionuclide-specific radioactivity to comply with the Compact Facility Radioactive Materials License. In view of the requirements of Texas Health and Safety Code (THSC), §401.207, as amended by Senate Bill 1504, 82nd Texas Legislature, 2011, the Commission shall revisit the terms of this subsection no later than one year from the effective date of the first amendments to this rule adopted in calendar year 2012. In the meantime, the] Commission will utilize the volumetric and curie limits set out in Texas Health and Safety Code (THSC), §401.207 [THSC, §401.207(b), (e), (e-1) (if applicable) and (f)], as guidelines with respect to authorizing the importation [import] of waste.

(c) If any state other than [a state or states in addition to] Texas or [and] 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 [nonparty] 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) No application for an agreement to import low-level radioactive waste for disposal shall be granted by the Commission unless:]~~

~~[(1) The Compact Facility operator has provided to the Commission a recommended total annual volume to be imported for disposal to the Compact Facility and certified pursuant to THSC, §401.207(b) that the disposal of imported Class A, Class B, or Class C low-level radioactive waste will not reduce capacity for Party State-generated waste, based on the currently licensed volume and activity. Any operator of a low-level radioactive waste disposal compact facility, as defined in §2.01 of THSC, §403.006, must in good faith and with commercially reasonable efforts apply for all necessary permits and licenses to maintain the facility in continual operation; and]~~

~~[(2) The agreement contains a provision acknowledging the right of the Commission to audit or cause to be audited compliance with the agreement.]~~

~~(d) [(e) 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 [rule]. 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. Each such agreement shall contain a provision acknowledging the right of the Commission to audit compliance with the agreement.~~

~~(e) [(f) 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. [When an applicant submits the application form prescribed by Annex A in paragraph (1) of this subsection, the applicant shall also submit a proposed agreement that addresses all of 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)  
[Figure: 31 TAC §675.23(f)(1)]~~

~~(2) Annex B.~~

~~Figure: 31 TAC §675.23(e)(2)  
[Figure: 31 TAC §675.23(f)(2)]~~

~~[(g) Fee for Proposed Importation Agreements. The Commission shall consider no later than one year from the effective date of the first amendments to this rule adopted in calendar year 2012 whether to impose fees with respect to applications and/ or agreements to import waste.]~~

~~(f) [(h) Submission of an Application for an Import [Notice and Timing of] 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 [file] an application to [and a proposed import agreement with] the Commission by electronic [and certified] 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 Commis-~~

sion has formally elected to enter into an agreement with the applicant and both parties have executed the agreement. In addition, the applicant shall [and must receive approval by the Commission prior to the shipment date; and]:

(1) certify that [The proposed import agreement shall be accompanied by a certification by the applicant that] the waste acceptance criteria promulgated by the Texas Commission on Environmental Quality (TCEQ) will be met for the proposed waste importation; and

(2) [The applicant shall] deliver to the [Commission,] Compact Facility Operator [operator] and TCEQ a copy of the application [and the proposed import agreement] (and any supplements or amendments thereto) by electronic mail at the same time the applicant submits the application to [of filing with] the Commission. The applicant must also send a hard copy of the application to[, and a copy shall also be delivered to] the Compact Facility Operator [facility] and [the] TCEQ through the UPS or FedEx delivery service. [by certified mail;]

[(3) Proposed import agreements received by the Commission during any calendar month may be processed in aggregate at the beginning of the following calendar month. The date of receipt of proposed import agreements shall be deemed the first business day of the following calendar month. Within seven days of the date of receipt, the Commission shall transmit notice of the receipt of the application and the proposed import agreement to the *Texas Register* for publication according to the schedule of the *Texas Register* and shall publish the application and proposed import agreement on the Commission's Web site; and]

[(4) Comments on the proposed import application may be submitted to the Commission by any person by electronic or certified mail during the 25-day period following the earlier of the date of posting and the date of transmittal as specified in paragraph (3) of this subsection.]

(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 [Proposed] Import Agreements [Agreement]. The Commission, a committee of the Commission [commission], or other persons employed or retained by the Commission shall, [promptly, but not sooner than 25 days or more than 60 days] after the posting of the application for an import agreement [earlier of the dates the application and proposed import agreement were posted] on the Commission's website, [Web site and the date of transmittal to the *Texas Register*;] review the application for an [and proposed] import agreement utilizing the following factors:

(1) The [characteristics of the waste proposed for importation including (but not limited to)] volume, type, physical form, and total radioactivity of the waste proposed for importation [and certain radionuclide-specific activities subject to subsection (d)(1) of this section];

(2) The policy and purpose of the Compact, as set out in Public Law 105-236, a federal law known as the "[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, [Host County, the Host State,] other party states, the in-compact generators, and the Compact Facility Operator [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 [and radionuclide-specific activity];

(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 [petitioner] 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 [the Compact Facility operator, in-compact generators, the applicant, the Host County, the Host State, other party states, interested state or federal regulatory agencies, or the public];

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

(10) The projected effect on the rates to be charged for disposal of party-state [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 [§401.207(b), (e), (e-1) (if applicable), and (f)];

(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 [Within 120 days of receipt], the Commission shall take one of the following actions on the application for a proposed importation agreement, in whole or in part: approve the proposed agreement; deny the proposed agreement; approve the proposed agreement subject to terms and conditions as determined by the Commission; or request additional information needed for a decision. The Commission's decision to approve[, approve] in whole or in part, deny, or approve subject to terms and conditions is final without the filing of a motion for rehearing [and unappealable]. 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 [the] application for any of the following reasons [set out as follows]:

(1) Lack of current or anticipated capacity beyond that required by party-state [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 [impose] any terms or conditions in [on] 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[; and Fees].

(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 [and] shall remain in effect as approved [for that term] 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 [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 [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 [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 [the appropriate] changes necessary to comply with[; based on] additional requirements imposed by the Commission[; are implemented].

(3) The Commission's Chair or his or her delegate may review applications for minor amendments and, in consultation with the Commission's Technical Committee, 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 the Commission's Technical Committee, 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.