

Texas Administrative Code

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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 |
| RULE §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 15 days after the petition is posted and no later than ~~75~~120 days after the petition is posted unless a

Contingency or Exigent event exists that justifies acting sooner, 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 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;
 - (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. Export petitions approved by the Commission are effective immediately.
- (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 period 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.