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**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, §675.25

The Texas Low-Level Radioactive Waste Disposal Compact Commission (Commission) adopts the amendment to §675.20 and new §675.25. The amendment to §675.20 is adopted without change and new §675.25 is adopted with change to the text as published in the July 5, 2019, issue of the *Texas Register* (44 TexReg 3430).

Summary of the Factual Basis for the Adoption of the Rules

In enacting the Texas Low-Level Radioactive Waste Disposal Compact Consent Act (Act), the United States Congress acknowledged the public value of the party states' cooperation in the protection of the health, safety, and welfare of their citizens and the environment of the party states (Public Law 105-236, 112 Stat. 1542). In furtherance of this policy, the Congress provided for the economic management of low-level radioactive waste to distribute the costs, benefits, and obligations among the party states (Public Law 105-236, 112 Stat. 1542). By adopting the Act in Texas Health and Safety Code (THSC), Chapter 403, the Texas Legislature authorized the Commission to enter into agreements with any person for the importation of low-level radioactive waste into the compact for disposal (THSC, §403.006). The Commission recognizes a public benefit in making a reservation of capacity at the Andrews, Texas compact facility for certain generators of low-level radioactive waste.

The Texas Legislature has placed an annual limit on the total number of curies of low-level radioactive waste that may be imported from non-party states (THSC, §401.207(e)). The amendment of §675.20 and new §675.25 will better serve the public by ensuring that small quantity generators of low-level radioactive waste will have available capacity from the total annual allotment for the disposal of that waste. It is critical that all generators of low-level radioactive waste have a pathway for disposal, however, because of their size, small quantity generators may not have the same resources to arrange for disposal as their larger counterparts. Further, the disposal of small quantity generator waste is often coordinated through brokers. The amendment and new rule will give brokers regulatory certainty that disposal space will be available when they solicit agreements to dispose of small quantity generator waste on behalf of those entities. Accordingly, the amendment and new rule implement the policy directives of the Act. The Commission amends the term "small quantity generator" to align with adopted new §675.25, concern-

ing capacity reservation for entities that meet the requirements of the defined term.

In this adoption, the Commission has made one technical, non-substantive change to new §675.25: in subsection (b), the Commission has inserted the word "of" between the words "disposal" and "compact."

Public Comment and Commission Response

The Commission received one comment in response to the July 5, 2019, publication of the proposed amendment and new rule from the Southwestern Low-Level Radioactive Waste Commission. The Southwestern Low-Level Radioactive Waste Commission did not recommend any changes to the proposed amendment or new rule, and was fully supportive of the proposed capacity reservation for small quantity generators. The Commission does not make any changes to the proposed amendment and new rule in response to this comment.

Statutory Authority

The Commission adopts the amendment and new rule under authority granted in THSC, §403.006, which includes specific rule-making authority in the Act, Section 3.05. The Commission interprets this section as allowing for the implementation of rules regarding the management of low-level radioactive waste from non-party states.

§675.25. Capacity Reservation for Small Quantity Generators.

(a) This section applies to non-party compact waste imported into the host state.

(b) Of the annual statutory allotment for the disposal of compact waste established in Texas Health and Safety Code, §401.207, the Commission shall reserve 2,000 curies per fiscal year for the disposal of non-party compact waste at the compact facility by small quantity generators.

(c) By majority vote, the Commission may increase the reserved amount in subsection (b) of this section if the Commission determines that national demand for disposal of low-level radioactive waste warrants an increase in the capacity reservation for small quantity generators. A Commission decision to increase the reservation amount under this subsection only applies to the fiscal year in which the Commission approves the reservation increase. If the Commission decides to increase the reserved amount in subsection (b) of this section then it will post the increased reservation amount on its website for the duration of the fiscal year in which it applies.

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 September 3, 2019.

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Leigh Ing

Director

Texas Low-Level Radioactive Waste Disposal Compact Commission

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

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS