



5711 Etheridge St. Houston, TX 77087  
www.nssihouston.com

February 9, 2024

Stephen Raines  
Executive Director  
Texas Low-Level Radioactive Waste Disposal Compact Commission  
1502 West Avenue  
Austin, Texas 78701

Re: Rules - Comments on Proposed Amendment to 31 Tex. Admin. Code §675.24

Dear Mr. Raines:

The following are Nuclear Sources and Services, Inc. comments on the proposed amendments to 31 Tex. Admin. Code §675.24, concerning importation of certain low-level radioactive waste for management or disposal that is not required to be disposed of in the Compact facility.

In the preamble to the above-cited "management rule" published in the Texas Register on January 12, 2024, the Commission determined the cost for Nuclear Sources and Services ("NSSI") to comply with the proposed rule to be no more than "... an estimated one-time cost of \$416.32 for a computer programmer to develop a database query to generate the new report fields and execute it monthly ..." therefore, "... it will not adversely impact NSSI." However, in Mr. Klebe's December 20, 2023 draft report provided to Mr. Jacobi on December 22, 2023, Mr. Klebe concluded the cost to develop the required database would be \$1,487 if the database is prepared by an NSSI employee, or "... if the programming is provided by a contractor, the cost would likely be two to three times that amount." So, it appears Mr. Klebe has concluded the financial impact on NSSI will range from \$1,487 to \$4,461 to develop the required database. Moreover, Mr. Klebe estimated another "15 minutes or less of staff time per month" or in cash terms using the estimated hourly rate in Mr. Klebe's report, approximately \$18.60 per month or \$223 per year would be required to provide the proposed reports annually.

The issue is the preamble estimates a one-time cost of \$416.32 to cover the development cost and the annual cost, while Mr. Klebe's report estimates a one-time development cost of \$1,487 to \$4,461 and a separate continuing annual cost of \$223, at a minimum. There is an inconsistency between the preamble and the Mr. Klebe's report provided to the Commission. Has the Commission conducted further analyses that contradicts Mr. Klebe's draft report? If so, please provide any additional or supplemental analyses underlying the Commission's conclusion.

The preamble states: "... there will be no probable economic cost to persons required to comply with the rule because the rule enhances pre-existing reporting and record-keeping requirements but are not more costly to comply with than the current rule." As noted in previous correspondence with the commission and its contractor, there will be significant economic cost





to comply with the expanded reporting and record-keeping requirements. In response to the initial publication of this proposed rule, NSSI noted the extra cost would be substantial, requiring the company to commit at least a full-time technician and administrative assistant to comply with these new requirements, which would result in thousands of dollars in annual expense and software development costs exceeding \$200,000. In their comments on the proposed rule, Waste Control Specialists independently estimated the new reporting requirements would require employment of another one and one-half technical employees to comply and a cost of \$200,000 to update their record keeping system. The Commission in the preamble to this revised rule ignores these independently derived, but consistent, conclusions and does not explain why they were dismissed or provide any details on how the Commission concluded the actual cost to NSSI would be no more than \$416.32. The bases for the Commission's analyses should be provided and the notice of rulemaking should be republished so that affected parties and the public will be fairly advised as to the economic impact on small business.

As to the statement in the preamble that existing reporting and record-keeping requirements "... are not more costly to comply with than the current rule.," the Commission does not identify what reporting requirements were used for this baseline or adequately explain how the Commission determined that the extensive additional reporting requirements would not be more costly than current reporting requirements. The proposed information to be updated and submitted on a monthly basis is far more extensive than that now required by the Texas Commission on Environmental Quality, the Texas Department of State Health Services, the Compact Commission, or any other agency. The Commission's proposed rule requires far more information be collected, recorded and reported more frequently than is currently required by our current licenses. Our preliminary review indicates NSSI will be required to record and manage 64% more information than is now required by the Texas Commission on Environmental Quality. This will be a monumental task completed at great expense if the data must be updated daily, reviewed for quality assurance, edited, compiled, and reported to the Commission on a monthly basis.

The proposed rule states: "This section is applicable only in the host state .... is applicable only to State of Texas licensed waste processors or brokers, or source consolidators" ... and "... is designed to gather information on the importation into the host state for disposal or management of certain low-level radioactive waste...."

The Texas Low-Level Radioactive Waste Disposal Compact includes the State of Vermont. This rule addresses only radioactive waste that is or becomes low-level radioactive waste in Texas. One perhaps unintended outcome of this rule is that competitors that now manage or propose to manage low-level radioactive waste could obtain a license to do so in the State of Vermont and not be subject at all to the onerous and costly requirement of this proposed rule to report their management activities in that State. Moreover, a low-level radioactive waste management entity in Vermont would not be required to enter into an agreement with the Commission under this rule or be required to report radioactive waste management operations on a monthly basis or at any other time. Why was the State of Vermont excluded in this rule?



The proposed rule states: “No importation of NCFW shall be allowed ... until (1) The NCFW agreement or any amendment under the NCFW agreement has been executed by both the Commission and the agreement holder; and (2) the agreement holder has made any changes necessary to comply with additional requirement.” This requirement gives the Commission unfair unilateral power to force a Texas management company to agree to potentially devastating terms of an NCFW agreement or shut down operations until it has done so. Additionally, modifying a management company’s record-keeping, hiring additional personnel, training personnel to comply with the expanded record keeping requirement, and completing necessary quality assurance and quality control tasks will take a year to 18 months to attain complete compliance with the proposed rule should it be adopted. Under this proposed section of the rule, an agreement holder would be shut down facing considerable loss of revenue, layoffs or possible bankruptcy.

The proposed rule does not appear to provide for confidentiality of the monthly reports. The information, if not protected from public disclosure, could result in the disclosure of trade secrets and commercial information that would result in substantial competitive harm to NSSI.

Finally, the rule has a number of typographical and grammatical mistakes. These should be corrected, and the proposed rule re-published before going forward with a rule making.

Sincerely,

Gamaliel Torres  
President

GT/lj