TITLE 31. NATURAL RESOURCES AND CONSERVATION

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

CHAPTER 675. PRELIMINARY RULES

The Texas Low-Level Radioactive Waste Disposal Compact Commission ("Commission") proposes the adoption of a new rule, Rule 675.2 to be captioned "Exportation and Importation of Waste," to be contained in Chapter 675, Part 21, Title 31, Texas Administrative Code, governing export and import of low-level radioactive waste and fees associated with those activities.

BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULE

Entry into the Texas Low-Level Radioactive Waste Disposal Compact was ratified by an Act of the Texas Legislature and signed into law by Governor Ann Richards in 1993. The initial party states were Texas, Maine and Vermont. Texas is the “host state” in that it is the state that will host the disposal facility to accept low-level radioactive waste for management and disposal in accordance with the terms of the compact.

With the passage of Public Law 105-236, “Texas Low-Level Radioactive Waste Disposal Compact Consent Act,” (“Compact”) and signing into law by President Clinton in 1998, the United States federal government allowed the Commission to come into existence. Subsequent to U.S. ratification, Maine withdrew from the Compact.
As an instrumentality of the party states, the purpose of the Compact is to provide a framework for a cooperative effort to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof. A further purpose is to cooperate among the party states in the protection of the health, safety, and welfare of their citizens, and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of the compact.

In November 2008, Texas Governor Rick Perry named the six Texas members of the Commission. The State of Vermont also named two Commissioners with the last Commissioner being named in March 2009. Subsequently, one Commissioner from Vermont was replaced in November 2009. An alternate Commissioner for Vermont was also appointed. The Commission held an inaugural organizational meeting on February 13, 2009.

Under the terms of § 3.03 of the Compact, the Commission is a legal entity, separate and distinct from the party states. In enforcing that position, the Compact stipulates, “the liabilities of the commission shall not be deemed liabilities of the party states.” Functionally, the Commission has been established as an instrumentality of the party states, and is authorized by the U.S. Congress in P.L. 105-236 to manage and restrict interstate commerce in low level radioactive waste management and disposal within the party states, as an exception to the “Dormant” Commerce Clause doctrine of the US. Constitution.

A new rule, §675.2 Exportation and Importation of Waste is proposed to set out the procedures and criteria by which such petitions for export and imports may be considered.
and granted or denied by the Commission and by which permits for export and import agreements may be granted. The rule sets and assesses fees associated with evaluating and processing export petitions and proposed import agreements. The rule establishes export permit fees and import agreement fees, but reserves for a later date the setting of the amount of those fees.

SECTION-BY-SECTION DISCUSSION ((( TO BE CONFORMED TO TEXT OF PROPOSED RULE)))

§ 675.2(a) Exportation of Waste by a Compact Generator to a Non-Party State for Disposal

Proposed §675.21(a) prohibits exportation of low-level radioactive waste from the Compact unless a person proposing to export has filed a written export petition with the Commission and the Commission has approved the export petition and issued an export permit in accordance with these rules.

Proposed §675.21(b) requires that a generator or group of generators proposing to export low-level radioactive waste to a low level radioactive waste disposal facility outside the party states to petition the Commission for an export permit.

Proposed §675.21(c) states that the form of the petition shall be on a form promulgated by the Commission and made available to the generators and the public.

Proposed §675.21(d) assesses and sets non-refundable fees that must accompany the petition form before any action will be taken by the Commission, sets forth procedures for setting conditions and restrictions upon granting the export permit to include cost
recovery of actual expenses of the Commission in evaluating and processing the petition, and provides an appeals process for the amount of the fee that may be assessed.

Proposed §675.21(e) requires a petitioner to file an export petition by certified mail with the Commission prior to the date of export of waste. Likewise, the Compact facility operator shall deliver to the petitioner any comments submitted to the Commission at the time of filing. Any comments on the petition shall be filed with the Commission within 20 days after the petition has been received by the Commission. The Commission shall distribute the export petition and comments received on the petition to the Commissioners, the petitioner and the Compact facility operator.

Proposed §675.21(f) requires the Commission to meet promptly, but no sooner than 90 days nor later than 120 days after the petition was filed to consider the export petition. The factors to be utilized in consideration of the petition are also provided.

Proposed §675.21(g) lists the actions the Commission may take on an export petition and provides for the imposition of any terms or conditions on the export permit.

Proposed §675.21(h) states that the Commission may impose any terms or conditions on the export permit reasonably related to furthering the policy and purpose of the Compact and the Commission's Rules.

Proposed §675.21(i) requires an export permit to be issued for a term certain, and further provides for amendment, revocation, or renewal of the permit. This section also requires the permit holder to file with the Commission an export report describing the disposal of waste occurring during the preceding calendar year. Finally, this section also addresses export permit fees.
Proposed §675.21(j) establishes that nothing in the rule shall limit the authority of the Commission, nor shall the rule prohibit the storage or management of low-level radioactive waste by a generator.

Proposed §675.21(k) states the export petition shall be on a form promulgated by the Commission and made available to the public.

Proposed §675.21(l) states that the definitions in this rule shall have the same 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.

Proposed 675.22(a) requires party state generators to notify the Commission when waste is shipped to a non-Party State facility for the purpose of management or processing and ultimate return to Party States for management by the generator or disposal at the Compact Facility.

Proposed 675.22(b) requires party state generators to notify the Commission when waste is returned to the generator for management or upon receipt at the Compact Facility for disposal and the time requirement for making such notifications, and prohibits generators from exporting waste for management and return to the party states in such a manner as to cause an increase in total radioactivity in that waste.

675.23 Importation of Waste for Management or Disposal by a Non-Compact Generator
Proposed §675.23(a) disallows the consideration of import petitions for disposal prior to the Commission declaring the Compact Facility to be operational and ready to receive waste and requires the Compact Facility to provide the Commission with a recommended waste disposal volume to be used by importing parties that the Compact Facility certifies will not affect Party State generator disposal capacity.

Proposed §675.23(b) prohibits any person from entering into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, unless the Commission has issued a permit allowing the importation of that waste pursuant to this Rule.

Proposed §675.23(c) prohibits importation of low-level radioactive waste from the Compact unless a person proposing to import has filed a written, proposed import agreement with the Commission and the Commission has approved the import petition and issued an import permit in accordance with these rules.

Proposed §675.23(d) states that the form of the agreement shall be on a form promulgated by the Commission and made available to the generators and the public.

Proposed §675.23(e) assesses and sets non-refundable fees that must accompany the proposed agreement form before any action will be taken by the Commission, sets forth procedures for setting conditions and restrictions upon granting the import agreement to include cost recovery of actual expenses of the Commission in evaluating and processing the proposed agreement, and provides an appeals process for the amount of the fee that may be assessed.
Proposed §675.23(f) requires a petitioner to file a proposed agreement by certified mail with the Commission prior to the date of import of waste. Likewise, the Compact facility operator shall deliver to the petitioner any comments submitted to the Commission at the time of filing. Any comments on the petition shall be filed with the Commission within 20 days after the petition has been received by the Commission. The Commission shall distribute the proposed import agreement and comments received on the proposed agreement to the Commissioners, the petitioner and the Compact facility operator.

Proposed §675.23(g) requires the Commission to meet promptly, but no sooner than 90 days nor later than 120 days after the petition was filed to consider the proposed import agreement. The factors to be utilized in consideration of the proposed agreement are also provided.

Proposed §675.23(h) lists the actions the Commission may take on an import petition and provides for the imposition of any terms or conditions on the import permit.

Proposed §675.23(i) states that the Commission may impose any terms or conditions on the import agreement reasonably related to furthering the policy and purpose of the Compact.

Proposed §675.23(j) requires an import agreement to be issued for a term certain, and further provides for amendment, revocation, or renewal of the agreement. This section also requires the agreement holder to file with the Commission an import report describing the disposal of waste occurring during the preceding calendar year. Finally, this section addresses import fees.
Proposed §675.23(k) requires the Compact Facility operator to file quarterly reports with the Commission and describes the form and content of each report.

Proposed §675.23(l) establishes that nothing in the rule shall limit the authority of the Commission, nor shall the rule prohibit the storage or management of low-level radioactive waste by a generator.

Proposed §675.23(m) states the import agreement shall be on a form promulgated by the Commission and made available to the public.

Proposed §675.23(n) states that the definitions in this rule shall have the same meaning ascribed to them in the Compact.

**IMPACT TO STATE OF TEXAS**

Wastes imported into Texas and disposed in the compact facility will have a positive effect on the State of Texas General Revenue Fund. As required by statute, the compact facility holder will transfer to the State of Texas General Revenue Fund five percent of the gross receipts per quarter. Waste exported will have a negative effect on the State of Texas General Revenue Fund because gross receipts would decrease with the reduction in disposal. The dollar amount of gross receipts cannot be estimated at this time because disposal fees have not been established in rule.

**LOCAL EMPLOYMENT IMPACT STATEMENT**
Local employment could be negatively impacted due to export of waste. Currently, the facility operator employs 150 positions. Exports may reduce the number of positions the facility employs as business volumes decline or make the disposal facility uneconomical to operate and result in discontinuance of operation. Local employment could be positively impacted if import agreements are issued to allow additional disposal of low level radioactive waste in Texas provided the waste facility has received authorization from the state licensing agency for the additional capacity. Currently, the facility operator employs 150 positions and will add 75 positions when the site opens for disposal. If agreements are issued to permit additional import, an estimated 75 positions will be created, impacting local employment positively. Additionally, indirect employment may result from the additional direct employment impact.

Additionally, the Compact provisions requires the compact waste disposal facility license holder to transfer each quarter to the commissioners court of the host county five percent of the gross receipts from compact waste received at the compact waste disposal facility. The commissioners court of the host county may spend the money for public projects in the host county or disburse the money to other local entities or to public nonprofit corporations to be spent for local public projects. The dollar amount of gross receipts cannot be estimated at this time because disposal fees have not been established in rule. However, it is anticipated that the increase in local government revenue resulting from disposal of imported waste would result in additional local employment as well.

PUBLIC BENEFITS; SMALL AND MICRO BUSINESS COSTS
The Commission has determined that for each of the first five years the proposed rules are in effect, the public benefit anticipated from the adoption of the proposed rules will be compliance with state and federal law, clear and concise guidance for affected entities, and protection of the public health and environment by ensuring proper disposal of low level radioactive waste at properly licensed facilities. There are approximately 2500 licensed generators of low level radioactive waste in Texas and Vermont. Of these, approximately 100 are estimated to be small or micro-businesses that would be subject to the provisions of this rule. The Commission estimates the economic impact of the cost of compliance with this rule to these businesses will be associated with accessing their existing inventory records in order to supply information about the radioactive waste for which they are requesting export approval. This information on radioactive materials should be readily available to them for compliance with other radiation control regulations. Submission costs should be minimal for data preparation and submission of a petition. The Commission has designated a reduced fee of $50.00 for generators submitting export petitions for 100 or fewer cubic feet to lessen the impact on these generators. Additionally, those generators are unlikely to need to export low level radioactive waste once the disposal site in the host state of Texas begins operations, estimated to happen in early 2011. Therefore, this fee impact will have limited duration.

The Commission developed the proposed rule according to the provisions of state and federal statutes. Variance from the state and federal requirements would be inconsistent with the compact provisions. Consequently, any variance from such requirements would not be consistent with the state and federal statutes and therefore, no alternative regulatory methods have been considered.
TAKINGS IMPACT ASSESSMENT

The Commission has determined that this proposal does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under § 2007.43, Texas Government Code.

REGULATORY ANALYSIS

The Commission has determined that this proposal is not a “major environmental rule” as defined by § 2001.0225, Texas Government Code. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of the state or a sector of the state.

LOCAL EMPLOYMENT IMPACT STATEMENT

The Commission has reviewed this proposed rulemaking and determined that local employment could be adversely impacted if a sufficient rate of waste volume disposal is not maintained at the Compact Facility and rates have to be increased to the point where the Compact Facility is no longer economically viable. Disposal volume rates are directly related to the waste disposal policies enacted by the Commission and carried out by these rules.

PUBLIC COMMENT
Written comments may be submitted to Ms. Margaret Henderson, Interim Executive Director, by mail at 3616 Far West Boulevard, Suite 117, #294, Austin, Texas 78731 or by electronic mail to margaret.henderson@tllrwdcc.org. The comment period closes 30 days from the day this proposed rule is published in the Texas Register.

31 TAC §675.2

STATUTORY AUTHORITY

The Rule is being proposed under authority of §3.05(4) of the Texas Low-Level Radioactive Waste Compact (P.L. 105-236), as set out in §403.006, Texas Health and Safety Code.

§675.2 Exportation and Importation of Waste

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

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

§675.21(b) Petition Required - A generator or group of generators proposing to export low-level radioactive waste to a low level radioactive waste disposal facility outside the party states shall submit to the Commission a petition for an export permit.

§675.21(c) Form of Petition - The petition shall be in writing and on a form promulgated by the Commission and posted on the Commission’s web page, or otherwise made readily accessible to generators and to the public.

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

§675.21(d)(2). Export Petition Evaluation Fee. An export petition evaluation fee may be assessed based on the actual time and expenses incurred in evaluating and acting on the petition, if the expense exceeds the export petition application fee.

§675.21(d)(2)(A). The fee will be based on the actual 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.

§675.21(d)(2)(B). This fee will be due and payable within 30 days of issuance of fee bill.

§675.21(d)(2)(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.
§675.21(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. 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. Any comments by the
Compact Facility operator on the export petition shall be filed in writing with the
Commission no later than 20 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 may distribute the export petition
and Compact Facility operator’s comments to other interested parties for information and
comment. 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.

§675.21(f) Review of Petition - After receiving the export petition and any comments that
have been made thereon, the Commission at a meeting held no sooner than 90 days or
later than 120 days after the date the export petition was filed with the Commission, shall
act on the export petition utilizing the following factors:

§675.21(f)(1). The volume of waste proposed for exportation, the type of waste proposed
for exportation, and the time period of the proposed exportation;

§675.21(f)(2) The policy and purpose of the Compact;
§675.21(f)(3) The availability of the Compact Facility for the disposal of the waste involved;

§675.21(f)(4) The economic impact on the Host County, the Host State, and the Compact Facility operator of granting the export permit;

§675.21(f)(5). The economic impact on the petitioner;

§675.21(f)(6). Whether the proposed disposal facility has authorization to import the waste into the region in which the disposal is to take place;

§675.21(f)(7). The existence of unresolved violations pending against the petitioner with any other regulatory agency, and any comments by the regulatory agency with which the petitioner has unresolved violations;

§675.21(f)(8). Any unresolved violation, complaint, unpaid fee, or passed due report that the petitioner has with the Commission;

§675.21(f)(9). Any relevant comments received from the Compact Facility, the petitioner, the Host County, the Host State, or the public; and

§675.21(f)(10). Any other factor the Commission deems relevant to carry out the policy and purpose of the Compact.

§675.21(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; deny the export petition; or approve the export petition subject to terms and conditions as determined by the Commission and as ultimately documented in the export permit.
§675.21(h) Terms and Conditions - The Commission may impose any terms or conditions on the export permit reasonably related to furthering the policy and purpose of the Compact and the Commission's Rules.

§675.21(i) Permit Duration, Amendment, Revocation, Reporting, Assignment and Fees

§675.21(i)(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.

§675.21(i)(2) The Commission may, on its own motion or in response to a petition for amendment of an export permit for which prior written notice has been given to the permit holder and the Compact Facility operator, add or delete requirements or limitations to the permit. The Commission may provide 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.

§675.21(i)(3) Not later than October 31 of each calendar year, a person who holds an export permit shall file with the Commission a report describing the amount and type of waste exported in the period from September 1 to August 31. The form of the report shall be prescribed by the Commission and shall be available on the Commission’s web site, or may be obtained at a location that will be posted on the Commission's website. Failure to timely file this report may result in denial of future export petitions.

§675.21(i)(4) An Export Permit is not assignable or transferable to any other person.

§675.21(i)(5) Export Permit Fees – RESERVED
§675.21(j) Agreements to Export - Nothing in this Rule 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 Rule shall be construed to prohibit the storage or
management of low-level radioactive waste by a generator, or its disposal pursuant to 10

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

§675.21(l) Definitions -Terms used in this Rule 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.

§675.22(a) Where the sole purpose of the exportation is to manage or process the material
for recycling or waste reduction and return it to the party states for disposal in the
compact facility, party state generators are not required to obtain an export permit;
however,

§675.22(b) The generator shall be required to file a report with the Commission prior to
proposed export of waste. The report shall include the following information:

§675.22(b)(1) The volume, physical form and activity of the waste exported;
§675.22(b)(2) The type of waste management employed at the waste management facility;

§675.22(c) Upon return of the waste to the generator, the generator shall file a report informing the Commission of:

§675.22(c)(1) The volume, physical form and activity of the waste returned to the party state generator; and

§675.22(c)(2) A certification by the generator that the waste has not been mixed or comingled with low-level radioactive waste that was not generated in the party states, except for incidental and de minimus amounts.

§675.23 Importation of Waste from a Non-Compact Generator for Management or Disposal

§675.23(a) No petition for an agreement to import low-level radioactive waste for disposal shall be granted by the Commission unless the Compact Facility operator has provided to the Commission a recommended total annual volume to be imported for disposal to the Compact Facility and certify that the disposal of imported waste will not reduce capacity for Party State generated waste. The recommendation shall become final after Commission approval.

§675.23(b) Agreement Required - No person shall import any low-level radioactive waste for management or 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 rule.
§675.23(c) Form of Agreement - The form of the Agreement shall be promulgated by the Commission and posted on the Commission’s web site, or otherwise made readily accessible to generators and to the public.

§675.23(d) Fee for Proposed Importation Agreements

§675.23(d)(1) Import Agreement Application Fee - An non-refundable, application fee of $500 shall accompany the proposed agreement. Payments shall be made by check or money order made payable to the Texas Low Level Radioactive Waste Disposal Compact Commission.

§675.23(d)(2) No action shall be taken on any proposed agreement until the requisite fees are paid.

§675.23(d)(3) Import Agreement Evaluation Fee - When the proposed agreement is reviewed and acted upon by the Commission, an additional, nonrefundable fee may be assessed based on the actual time and expenses incurred in evaluating and acting on the proposed agreement, if the expense exceeds the application fee. This fee shall be by check or money order and made payable to the Texas Low Level Radioactive Waste Disposal Compact Commission.

§675.23(d)(4) The fee will be assessed to recover the actual cost of evaluating the proposed agreement and may consider, but not be limited to these factors:

(A) staff expenses

(B) supplies

(C) direct and indirect expenses

(D) purchased services of consultants such as engineers, attorneys or consultants, and
(E) other expenses reasonably related to the evaluation.

§675.23(d)(5) This fee will be due regardless of whether or not an import permit is issued and shall be made by check or money order made payable to the Texas Low Level Radioactive Waste Disposal Compact Commission.

§675.23(e) Notice and Timing of Agreement - A person shall file a proposed import agreement with the Commission and receive approval by the Commission prior to the proposed importation date. By electronic mail, the petitioner shall deliver to the Compact Facility operator a copy of the import agreement (and any supplements or amendments thereto) at the time of filing with the Commission, and a copy shall also be delivered by Certified mail. Any comments by the Compact Facility operator on the import agreement shall be filed in writing with the Commission not later than 20 days after the date the proposed import agreement 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 may distribute the import agreement and Compact Facility operator’s comments to other interested parties for information and comment. The Commission shall distribute the import agreement and any comments received from the Compact Facility or others to the members of the Commission, and distribute comments from others to the Compact Facility operator and the petitioner.

§675.23(f) Review of Proposed Import Agreement - After receiving the proposed import agreement and any comments that have been made thereon, the Commission at a meeting held promptly, but no sooner than 90 days or later than 120 days after the date the
proposed import agreement was filed with the Commission, shall act upon the import agreement utilizing the following factors:

§675.23(f)(1) The volume, type, physical form and activity of waste proposed for importation;

§675.23(f)(2) The policy and purpose of the Compact;

§675.23(f)(3) The availability of the Compact Facility for the disposal of the waste proposed to be imported;

§675.23(f)(4) The economic impact on the Host County, the Host State, and the Compact Facility operator of entering into the import agreement;

§675.23(f)(5) Whether the Compact Facility operator has authorization to dispose of the proposed waste;

§675.23(f)(6) The effect on the Compact Facility’s total annual volume recommended for importation;

§675.23(f)(7) The existence of unresolved violations pending against the petitioner with any other regulatory agency, and any comments by the regulatory agency with which the petitioner has unresolved violations;

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

§675.23(f)(9) Any relevant comments received from the Compact Facility operator, the person proposing to export the waste, the Host County, the Host State, interested state or federal regulatory agencies, or the public; and
§675.23(f)(10) The authorization of a person to export (if applicable);

§675.23(f)(11) Any other factor the Commission deems relevant to carry out the policy and purpose of the Compact.

§675.23(g) Decision by the Commission - The Commission may take one of the following actions on the proposed importation agreement, in whole or in part: approve the proposed agreement; deny the proposed agreement; or approve the proposed agreement subject to terms and conditions as determined by the Commission.

§675.23(h) Terms and Conditions - The Commission may impose any terms or conditions on the import agreement reasonably related to furthering the policy and purpose of the Compact.

§675.23(i) Importation Agreement Duration, Amendment, Revocation, Reporting, Assignment and Fees

§675.23(i)(1) An importation agreement shall be issued for the term specified in the agreement and shall remain in effect for that term unless amended, revoked, or canceled by the Commission.

§675.23(i)(2) The Commission may, on its own motion or in response to a petition for amendment of an importation agreement for which prior written notice has been given to the permit holder and the Compact Facility operator, add or delete requirements or limitations to the agreement. The Commission may provide a reasonable time to allow the existing exporter and the Compact Facility operator to make the changes necessary to comply with any additional requirements imposed by the Commission.

§675.23(i)(3) An Import Agreement is not assignable or transferable to any other person.
§675.23(i)(4) Import Agreement Fees – RESERVED

§675.23(j) 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 under the Agreement during the quarter by the Compact Facility, including the physical, radiological and chemical properties of the waste. Each Quarterly Import Report will provide the manifested volume and activity of each imported class of waste (A, B, and C, or in the case of waste imported for management, Greater Than Class C), the state or other place of origin, and the date(s) of waste disposal, if applicable. 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 managed or disposed of in prior quarters under this Agreement. The forms of the Quarterly Import Report shall be prescribed by the Commission and shall be posted on the Commission’s website, or may be obtained at a location that will be posted on the Commission’s website.

§675.23(k) Agreements to Import - Nothing in this Rule shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. § 20.2002.

§675.23(l) Form of Import Agreement - The import agreement shall be on a form promulgated by the Commission, posted on the Commission's website, and shall contain at a minimum the criteria contained in §675.23(f). The form may be amended by the Commission from time to time.

§675.23(m) Definitions - Terms used in this Rule shall have the meaning ascribed to them in the Compact.
The Commission certifies that the proposed rule has been reviewed by legal counsel and found to be within the agency’s legal authority to adopt.

Issued in Austin, Texas on December 11, 2009.