



Southeast Compact Commission
for Low-Level Radioactive Waste Management

States Working for Responsible Waste Management

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BY ELECTRONIC MAIL

November 18, 2011

Mr. Robert C. Wilson, Chairman
TLLRWDCC
3616 Far West Blvd., Ste. 17, # 294
Austin, Texas 78731

SUBJECT: Comments on Proposed Amendments to the Commission's Importation Rule, 31 T.A.C. §675.23

Dear Mr. Wilson:

Thank you for the opportunity to comment on proposed amendments to 31 T.A.C. §675.23, relating to the importation of low-level radioactive waste for the Texas Compact region. The Southeast Compact Commission has not had an opportunity to formally review and approve comments regarding the draft rules. As such, please understand that the enclosed comments represent those of individual commissioners and staff and not those of the Commission as a whole.

Since I am not able to attend the meeting of the Texas Compact Commission on November 22, I ask that you please distribute the comments to all Texas Compact Commissioners prior to the meeting.

Sincerely,

Kathryn V. Haynes
Executive Director

Attachment

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**COMMENTS TO TLLRWDC WORKSHOP NOVEMBER 22, 2011,
REGARDING PROPOSED CHANGES TO IMPORT RULE 675.23**

Submitted November 18, 2011

The following comments are being submitted by individual commissioners and staff of the Southeast Compact Commission, as the Commission did not have an opportunity to vote to approve a unified set of comments.

In general, we find that the “Petition for Adoption of Rules to amend 31 Texas Administrative Code 675.23, *Importation of Waste from a Non-Compact Generator for Disposal*” includes most of the elements necessary to implement Senate Bill 1504 of the 82nd Texas Legislature and to establish the forms and procedures to be used for the importation of low-level radioactive waste into the Texas Compact.

However, in the interest of public health and safety and inter-regional cooperation, we request that the Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC) consider the following issues in its process to amend the import rules.

- We are concerned that a \$500 application fee, plus a possible evaluation fee may be cost-prohibitive for small generators and thus may discourage disposal. Would the Commission consider a lower application fee, or an exemption based on circumstances and ability to pay, for extremely small quantities of waste and/or for very small organizations? Alternatively, would the Commission consider prorating the application fee based on volume or curies to be shipped, subject to a “true-up” after the waste has been received and verified at WCS.
- We are also concerned that an indeterminate evaluation fee may likewise discourage disposal. We suggest that the Commission adopt a fee schedule as quickly as possible and consider capping the fee at a specific amount.
- As we understand it, the initial purpose of imposing fees was to fund the Commission. Since the Commission will now be funded through the taxes and surcharges, the Commission may want to consider little or no fee for small generators.
- There is also a concern that large generators and processors may use up all the capacity set aside for imported waste before the small generators ever learn of the opportunity for import. Would the Commission consider setting aside an amount of capacity, either by curies, volume, or both, for small generators and sealed sources?
- We suggest adding “compact authorities” to item 675.23(h)(7) to address the potential for a compact authority with which a generator may have unresolved violations.
- We suggest retaining 675.23(h)(9) and adding “Compact Authorities” or “regional compact” to the list of potential persons commenting.

- Just as the TLLRWDCC may depend on other host states, compacts and facility operators to assist in enforcement of its export permit program, other compact commissions will depend upon the TLLRWDCC to assist in enforcement of their policies. We therefore suggest retaining 675.23(h)(10), and inserting “from the relevant state and/or compact” before “of a person...”
- We suggest that provisions be added to 675.23(k) to provide the agreement holder the right to appeal limitations to the agreement, additional requirements or revocation of the agreement the same as provided in 675.23(i) related to the Commission’s decision on an application or proposed agreement. This appeal would then also be reflected in the section C. of the agreement form as proposed by WCS.
- We suggest that 675.23(o)(1) as proposed in the petition be clarified that “commission” refers to the Texas Commission on Environmental Quality.
- Item 7 of the application form proposed by WCS states “Does Petitioner have any unresolved violations with any regulatory agency with jurisdiction to regulate radioactive material?” We suggest that the Commission change this to read “...jurisdiction to regulate radioactive waste?”
- The Item 8.c. of the application form proposed by WCS provides for the petitioner to certify that all applicable fees are paid, including the Import Agreement Evaluation Fee. How can the petitioner know the amount of the Agreement Evaluation Fee before the initial petition is submitted?
- ~~The fees seem to be too steep for some of the smaller generators that need to dispose of the radioactive waste. It seems like the rule is designed to discourage the import of waste for disposal. (Similar to * above)~~