



June 22, 2015

Ms. Leigh Ing, Executive Director
Texas Low-Level Radioactive Waste Disposal Compact Commission
333 Guadalupe Street, #3-240
Austin, TX 78701

Via electronic mail: administration@tllrwdcc.org

RE: Commission rules 31 TAC §675.20-675.23

Dear Ms. Ing:

Waste Control Specialists LLC (WCS) appreciates the opportunity to comment on the Texas Low-Level Radioactive Waste Disposal Compact Commission's (Commission) rules regarding 31 TAC §675.20-675.23. Our comments are below for your consideration.

Comments on §675.20 Definitions

- 675.20 (1) Definition of "Commission" should mirror the definition in Texas Health & Safety Code, Chapter 403 2.01 (2) and Texas Health & Safety Code, Chapter 403.0005 (1) so as not to create a new definition outside of the statute.
- It is confusing to define "Compact facility" and "facility" in 675.20 (3) and "Compact waste disposal facility" in 675.20 (5). Recommend deleting the definition in 675.20 (5) as it is duplicative and the definition in 675,20 (3) mirrors Texas Health & Safety Code, Chapter 403.201 (3).
- Recommend using the definition for "compact waste" and combining it to read "'Compact waste' and 'Party-state waste' means low low-level radioactive waste that: (A) is originally generated onsite in a host state or a party state; or (B) is not generated in a host state or a party state but has been approved for importation into this state by the Commission under §3.05 of the Compact," and delete 675.20 (17).
- We recommend revising the definition of "Generator" as follows: "The term "generator" means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the Commission."

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

- Subsection (c) notes that the Petitioner must send a copy to the Compact Facility. We should be notified as it could impact the rates of the Compact Waste Facility and other users. We like the notice requirement.
- Subsection (g) requires the commission to act on an export petition within 120 days after it has been posted to the commission's website. Consistent with WCS's previous comments, we request the commission act on petitions within 90 days after the website posting.
- Subsection (g)(10) requires the 'projected effect' of the export on the rates to be considered. We believe comments from WCS as the Facility Operator and the economic impact on us (as required in (4)) should be sufficient since the Commission is not party to the rate case or its proceedings. We recommend this be removed.
- Subsection (g)(11) requires the projected effect on preservation of the Compact Waste Facility capacity to be considered. We note that any export will increase capacity of the Compact Waste Facility for party states, so exports would always be considered favorable under this requirement. However, the Compact Waste Facility needs waste shipments to be economically viable.
- We recommend a new numbered subsection in (g) to consider whether or not the waste is acceptable at the Compact Waste Facility.
- Subsection (j)(3) – WCS supports the delegation of approval of minor amendments for both export and import.

Comments on §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

- It appears that the Commission is requiring two reports, one for volume being exported (a) and one for the return (c), but the rules are not clear. WCS recommends the Commission promulgate a form to meet the requirement of 675.22(c).
- WCS notes that the Commission has removed the section on not downblending or comingling compact waste with non-party waste. We recommend that the Commission add a reference to the comingling regulations pursuant to Texas Health & Safety Code 401.207(k), as is also already noted in §675.23(i)(12).

Comments on §675.23 Importation of Waste from a Non-Party Generator for Disposal

- Subsection (f)(2) notes that the Applicant must send a copy to the Compact Facility. We should be notified as we will be evaluating the waste for receipt. We like the notice requirement.
- Subsection (g) and (h) are beneficial as they reduce the unnecessary time delays for consideration of an import application. The delivery methods are more reliable and timing of delivery more certain than Certified Mail. We support this change.

- Subsection (i)(10) requires the ‘projected effect’ of the export on the rates to be considered. We believe comments from WCS as the Facility Operator and the economic impact on us (as required in (3)) should be sufficient since the Commission is not party to the rate case or its proceedings. We recommend this be removed.
- Subsection (i)(11) – Import agreement volumes and curies are the best estimates the generators have at the time they submit their import application. The amount approved may or may not actually be shipped to the Compact Facility for disposal or accepted at the Compact Facility. Because the statutory limit set forth in the Texas Health & Safety Code is for disposal and because import requests are a generator’s best guess, we recommend the Commission approve more than 275,000 curies and monitor the actual disposal amount against the statute.
- Subsection (l)(1) – WCS supports the ability of import agreements to be extended past the end of the fiscal year by amendment. There are occasions where a generator has delays in shipping and needs to move the shipment across the fiscal year. A faster and easier process for allowing shipments to continue in these circumstances would allow shipments to remain scheduled and improve disposal operations.
- WCS supports the delegation of approval of minor amendments for both export and import as written in subsection (l)(3) and recommends the Commission delegate this authority to the Executive Director. Consistent with previous WCS comments, we recommend adding to the rule that volume or curie changes within 10% of the original import agreement amount, but below 125 feet or 125 curies, should also be considered for a minor amendment.
- Subsection (l)(5) – WCS is in favor of a shorter posting period for amendments and recommends 10 days prior to the meeting date.
- WCS has been responsive to Commission requests for information and reporting. We recommend replacing subsection (m) with the following: “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 import agreement during the quarter by the Compact Facility. Each Quarterly Import Report will provide the identity of the generator, the manifested volume and activity of the waste, the state or United States Territory of origin, and the date(s) of waste disposal. 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 disposed of in prior quarters under this Agreement.”
- WCS supports the use of a broker for all generators, not just Small Quantity Generators as designated in subsection (n).
- Figure: 31 TAC §675.23(e)(1), Section III- Sealed sources may be listed as one of several Waste Descriptions on the form, but because of the sealed source’ packaging criteria required under WCS’ Radioactive Material License R04100, sealed sources will not be commingled with any other waste type. WCS recommends removing the question concerning sealed source packaging.

Again, we thank the Commission for this large undertaking and appreciate the opportunity to provide these comments. Please do not hesitate to contact me if I can clarify our position or answer any additional questions.

Sincerely,

A handwritten signature in blue ink that reads "Rod Baltzer". The signature is written in a cursive, slightly slanted style.

Rod Baltzer

cc: Betsy Madru
Sherry Frenette