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December 6, 2017

ATTN: Leigh Ing - Executive Director
Texas Low-Level Radioactive Waste Disposal Compact Commission
505 West 15th St.
Austin, TX 78701
administration@tllrwdcc.org

RE: Rules

Dear Commissioners of the Texas Low-Level Radioactive Waste Disposal Compact Commission:

After careful consideration of the proposed rules described under 31 TAC §675.24, Nuclear Sources & Services, Inc. is submitting commentary to the commission in an effort to provide guidance on the development of the rule. Below are our comments or exceptions listed under each citation.

31 TAC §675.24(c):

(c) Any entity in the host state that imports NCFW must enter into an agreement with the Commission that contains a requirement that it will report to the Commission on a quarterly basis the following information with respect to each shipment of NCFW that it has received in the previous quarter:

- (1) the name of the generator;**
- (2) the name of the state and the name of the low-level waste compact (if any) where the waste originated;**
- (3) the activity of the waste in curies;**
- (4) the volume or weight of the waste; the date of receipt; whether the waste is being stored, processed, or otherwise managed;**
- (5) location of management; and**
- (6) the date of and location of disposal of that waste.**

Some of the information requested on the electronic quarterly reports is deemed confidential. NSSI considers client identification or potential customers to be proprietary information. We request that this information not be made available for public disclosure since it could place NSSI and its clients at a competitive disadvantage. Information related to Category I and Category II quantities of radioactive material are also deemed prescribed and safeguarded information per 25 TAC §289.252(ii). Quarterly reports detailing the cumulative shipments from the same generator, or receipts at our facility of certain quantities of radioactive material could approach these quantities; especially when dispositioning of sealed





sources. Additionally, details of the waste related to the volume, weight, receipt date, location and how it is managed is already made available and provided the Texas Commission on Environmental Commission annually during inspections of our Radioactive Materials License R01811.

31 TAC §675.24(d):

- (d) Quarterly reports must be submitted electronically on forms provided by the Commission and must be submitted before the 31st day after the end of each quarter of the Commission's fiscal year.**

NSSI feels that quarterly reporting frequency is too burdensome and will require additional resources be allocated to put together such reports. These additional resource requirements have not been taken into account for the next fiscal year, which is troubling considering the new rules could take effect as soon as quarter 1 of 2018. NSSI feels yearly reporting is adequate to capture the information requested.

31 TAC §675.24(e), (f):

- (e) An entity that imports low-level radioactive waste into the host state as described in subsection (c) of this section shall have entered into an agreement with the Commission within 90 days after the effective date of this section or within such time extensions thereafter as the Commission may allow. To the maximum extent possible, each agreement entered into under this section will contain provisions identical to those in each other agreement entered into under this section.**
- (f) An entity that imports waste into the host state as described in subsection (c) of this section shall submit an application for entry into an agreement with the Commission electronically or on paper on a form provided by the Commission.**

NSSI would like more clarification of the requirements before entering into an agreement with the Commission to import low-level radioactive waste into the host state. Is an agreement required on NSSI's behalf if NSSI is importing low-level radioactive waste to our own facility for processing, or is the burden passed on to our customers who export/ship their low-level radioactive waste to NSSI themselves?

Is there criteria established for becoming an "agreement site?" Would being deemed an "agreement site" incur additional audits or fees?

31 TAC §675.24(h):

- (h) The Commission may revoke or amend an agreement on its own motion or in response to an application by the agreement holder. When the Commission amends an NCFW agreement on its on motion, it may provide a reasonable time to allow the agreement holder to make the changes necessary to comply with any additional requirements imposed by the Commission. No importation of NCFW shall be allowed under any amended agreement for the importation of NCFW until:**
- (1) the amendment to 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 requirements.**

NSSI feels that the Commission does not have the authority to cease importations of low-level radioactive waste into NSSI's processing facility, regardless of the status of the agreement, motion, or application as the proposed rules described under 31 TAC §675.24. As long as NSSI is in good standing the Texas Commission on Environmental Quality, Texas Department of State Health Services, Texas Department of Transportation, and other regulatory agencies, NSSI will continue to operate per the licensed activities already permitted pursuant to our radioactive materials licenses. Additionally, shipments into NSSI are



scheduled weeks and sometimes months in advance. Some of our customers do not have licensed facilities where waste, meant to be transported to NSSI for processing, can be stored. Ceasing shipments into NSSI based on the status of our agreement with the Commission will create an economic hardship for both our customers and NSSI.

To reiterate, NSSI is already a licensed and permitted facility by the Texas Commission on Environmental Quality and Texas Department of State Health Services to receive, store, process, and treat low-level radioactive wastes. NSSI is already subject to audits, fees, inspections, and reporting requirements regarding the same licensed activities the Commission is seeking more information on. The additional reporting and agreement requirements are redundant, confusing, and are deliberately aimed at a specific entity/ies in the market. NSSI has been providing a valuable resource to the mixed waste and LLRW community successfully for 46 years including but not limited to the pharmaceutical, educational, and the federal government. NSSI strongly feels the proposed rules described under 31 TAC §675.24f not only negatively impact our organization but the radioactive and waste community as a whole. NSSI strongly believes this is direct violation of Competition Law by specifically reducing completion in the market. Additionally, these proposed regulations place a further financial burden to smaller firms such as NSSI by allowing the larger firms with deeper resources gain a bigger market share, effectively barring competition and putting smaller companies out of business.

NSSI will stand firmly by its long-standing position regarding to the latest proposals that have resurfaced yet again.

If you have any questions or need any additional information supporting the NSSI, feel free to contact me at 713-641-0391 or via email at gtorres@nssihouston.com.

Regards,

Gamaliel Torres
Radiation Safety Officer

GT/vla
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