

will provide the necessary forms and methodologies to the retail public utility.

(4) Effective January 1, 2019, the water loss audit must be performed by a person who has completed water loss audit training developed by the executive administrator. The executive administrator will make such training available without charge on the agency website, and may also provide such training in person or by video.

(c) The executive administrator shall determine if the water loss audit is administratively complete. A water loss audit is administratively complete if all required responses are provided and the audit is completed by a person who has been trained to conduct water loss auditing as described in paragraph (4) of subsection (b). In the event the executive administrator determines that a retail public utility's water loss audit is incomplete, the executive administrator shall notify the utility.

(d) A retail public utility that provides potable water that fails to submit a water loss audit or that fails to correct a water loss audit that is not administratively complete within the timeframe provided by the executive administrator is ineligible for financial assistance for water supply projects under Texas Water Code, Chapter 15, Subchapters C, D, E, F, G, H, J, O, Q, and R; Chapter 16, Subchapters E and F; and Chapter 17, Subchapters D, I, K, and L. The retail public utility will remain ineligible for financial assistance until a complete water loss audit has been filed with and accepted by the executive administrator.

(e) The following thresholds shall apply to the indicated categories of retail public utility:

(1) For a retail public utility with a population of more than 10,000:

(A) Apparent loss expressed as gallons per connection per day must be less than the utility's allowed apparent loss.

(B) Real loss expressed as gallons per connection per day must be less than three times the utility's unavoidable annual real loss.

(2) For a retail public utility with a population of 10,000 or fewer and a service connection density more than or equal to 32 connections per mile:

(A) Apparent loss expressed as gallons per connection per day must be less than the utility's allowed apparent loss.

(B) Real loss expressed as gallons per connection per day must be less than 50 gallons per connection per day.

(3) For a retail public utility with a population of 10,000 or fewer and a service connection density less than 32 connections per mile:

(A) Apparent loss expressed as gallons per connection per day must be less than the utility's allowed apparent loss.

(B) Real loss expressed as gallons per mile per day must be less than 1,600 gallons per mile per day.

(4) For a utility that has a volume of wholesale water sales that flow through the retail water distribution system:

(A) Apparent loss expressed as gallons per connection per day, determined using a modified calculation that includes the wholesale volume, must be less than the utility's allowed apparent loss.

(B) Real loss, expressed as gallons per connection per day and including a wholesale factor that takes into account the wholesale water volume, must be less than three times the utility's unavoidable annual real loss.

(f) If a retail public utility's total water loss meets or exceeds the threshold for that utility, the retail public utility must use a portion of any financial assistance received from the board for a water supply project to mitigate the utility's water loss. Mitigation will be in a manner determined by the retail public utility and the executive administrator in conjunction with the project proposed by the utility and funded by the board. On the request of a retail public utility, the board may waive the requirements of this subsection if the board finds that the utility is satisfactorily mitigating the utility's system water loss. The request for waiver should be addressed to the executive administrator and include information about the utility's current or planned activities to mitigate their water loss and their source of funding for that mitigation.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 19, 2017.

TRD-201704211

Todd Chenoweth

General Counsel

Texas Water Development Board

Earliest possible date of adoption: December 3, 2017

For further information, please call: (512) 463-7686



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

CHAPTER 675. OPERATIONAL RULES SUBCHAPTER B. EXPORTATION AND IMPORTATION OF WASTE

31 TAC §675.24

The Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC or Commission) proposes new §675.24, relating to Requirement to Report on the Importation of Certain Low-Level Radioactive Waste for Management or Disposal that is not Required to be Disposed of in the Compact Facility. In order to fulfill its responsibilities with respect to 42 United States Code, §§2021(b) - 2021(j) and §3.04(9) and §3.05(6) of the Compact as set out in Texas Health and Safety Code (THSC), §403.006, the Commission has determined that it is in the public interest that it gather information regarding low-level radioactive waste that enters the host state irrespective of whether it requires an agreement for importation for disposal at the Compact Facility. Proposed new §675.24 seeks to facilitate the gathering of that information by the way of reporting requirements after the entry of the low-level waste into the state rather than requiring approval for the importation of certain categories of low-level radioactive waste into the host state.

Fiscal Note

Leigh Ing, the Commission's Executive Director, has determined that, for the first five-year period the proposed rule is in effect, no fiscal implications are anticipated for the Compact Commission or for units of state or local government as a result of the administration or enforcement of the proposed rule.

Public Benefits and Costs

Ms. Ing has also determined that, for each year of the first five years the proposed rule would be in effect if adopted, the public benefit anticipated from the changes seen in the proposed rule will be increased knowledge available to the Commission and the public with respect to the presence of low-level radioactive waste in the host state. By requiring a quarterly report of certain information about low-level waste that enters the host state for a purpose other than disposal at the compact facility, the proposed Commission rule benefits the host state and the public by allowing more complete tracking of low-level radioactive waste that enters the host state.

It is anticipated that businesses and individuals will have no significant additional economic costs as a result of their compliance with the proposed rule. The new reporting requirements require the reporting of minimal information that is already maintained by the entities required to report under proposed new §675.24.

Economic Impact Statement and Regulatory Flexibility Analysis for Small Businesses, Microbusinesses, and Rural Communities

There is no direct adverse economic impact for small businesses, microbusinesses, and rural communities; therefore, no regulatory flexibility analysis specified in Texas Government Code, §2006.002 is required.

Local Employment Impact Statement

The Commission has determined that a local employment impact statement is not required because the proposed rule will not adversely affect a local economy for the first five years that the proposed rule will be in effect if adopted.

Regulatory Analysis

The Commission has determined that the proposed rule is not a "major environmental rule" as defined by Texas Government Code, §2001.0225.

Small Businesses and Microbusinesses

The Commission has determined that the proposed rule will not have an adverse economic impact on either small businesses or microbusinesses.

Takings

The Commission has concluded that the proposed rule does not restrict or limit an owner's right to his or her real property that would otherwise exist in the absence of this action.

Submittal of Comments

Written comments may be submitted to Leigh Ing, Executive Director, 505 West 15th Street, Austin, Texas 78701, or, by electronic mail to comments@tllrwdcc.org. All comments should reference "Rules." The Comment period closes on December 8, 2017. Copies of the proposed rulemaking can be obtained from the Commission's website at <http://www.tllrwdcc.org/rules/>. For further information, please contact Leigh Ing, Executive Director, (512) 217-8045.

Statutory Authority

The rule is proposed under the authority granted in §3.05(4), (6), and (7) of the Compact set out at THSC, §403.006 and in THSC, §401.207.

The proposed rule implements §3.04(9) and §3.05(6) of the Compact as set out at THSC §403.006.

§675.24. Requirement to Report on the Importation of Certain Low-Level Radioactive Waste for Management or Disposal that is not Required to be Disposed of in the Compact Facility.

(a) This section is applicable only in the host state.

(b) This section is designed to gather information on the importation into the host state for disposal or management of certain low-level waste that:

(1) is required when shipped to be listed on Nuclear Regulatory Commission (NRC) Forms 540 or 541 (Uniform Low-Level Waste Manifest Shipping Forms);

(2) is included within the definition of low-level radioactive waste found in 30 TAC §336.2(89) (relating to Definitions) as the definition is in effect on the date this section becomes effective or as 30 TAC §336.2(89) may be amended or renumbered in the future, but is not intended for disposal in the Compact Waste Facility;

(3) is not low-level radioactive waste described by 42 United States Code, §2021c(b)(1); and

(4) for the purposes of this section, the material described in this subsection will be referred to as Non-Compact-Facility Low-Level Radioactive Waste ("NCFW").

(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.

(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.

(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.

(g) Failure on the part of an entity that imports waste into the host state as described in subsection (c) of this section to comply with any provision of this section or the agreement entered into pursuant to subsection (d) of this section may result in the Commission reporting such failures to the host state agency that has licensed, permitted, or otherwise authorized the operation of such entities.

(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 own 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.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 20, 2017.

TRD-201704221

Leigh Ing

Executive Director

Texas Low-Level Radioactive Waste Disposal Compact Commission

Earliest possible date of adoption: December 3, 2017

For further information, please call: (512) 239-6087

◆ ◆ ◆
TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 6. TEXAS DEPARTMENT OF CRIMINAL JUSTICE

CHAPTER 151. GENERAL PROVISIONS

37 TAC §151.3

The Texas Board of Criminal Justice proposes amendments to §151.3, concerning operating procedures for the Texas Board of Criminal Justice. The amendments are proposed in conjunction with a proposed rule review of §151.3 as published in the Review of Agency Rules section of the *Texas Register*. The proposed amendments conform the rule to legislation from the 85th legislative session, HB 3047, regarding Open Meetings requirements when holding a video conference meeting.

Jerry McGinty, Chief Financial Officer for the Texas Department of Criminal Justice, has determined that for each year of the first five years the rule will be in effect, enforcing or administering the rule will not have foreseeable implications related to costs or revenues for state or local government.

Mr. McGinty has also determined that for each year of the first five year period, there will not be an economic impact on persons required to comply with the rule. There will not be an adverse economic impact on small or micro businesses or on rural communities. Therefore, no regulatory flexibility analysis is required.

The anticipated public benefit, as a result of enforcing the rule, will be to conform the rule to recent legislative changes. No cost will be imposed on regulated persons.

The rule will have no impact on government growth; no creation or elimination of employee positions; no increase or decrease in fees paid to the TDCJ; no new regulation and no effect on an existing regulation; no increase or decrease in the number of individuals subject to the rule; and no effect upon the economy.

Comments should be directed to Sharon Felfe Howell, General Counsel, Texas Department of Criminal Justice, P.O. Box 4004, Huntsville, Texas 77342, Sharon.Howell@tdcj.texas.gov. Written comments from the general public must be received within 30 days of the publication of this rule in the *Texas Register*.

The amendments are proposed under Texas Government Code §§492.005 - 492.007, 492.013, 551.001 - 551.146.

Cross Reference to Statutes: None.

§151.3. *Texas Board of Criminal Justice Operating Procedures.*

(a) General. This section establishes operating procedures for the Texas Board of Criminal Justice (TBCJ) to conduct business.

(b) Organization.

(1) The TBCJ is a nine member body appointed by the governor to oversee the Texas Department of Criminal Justice (TDCJ). The TBCJ chairman is designated by and serves at the request of the governor pursuant to Texas Government Code §492.005.

(2) The TBCJ shall elect a vice-chairman and a secretary each odd-numbered year. The vice-chairman shall preside over meetings in the chairman's absence, and either the chairman or the secretary shall execute any necessary documents.

(3) The chairman, on behalf of the TBCJ, is empowered to appoint members of the TBCJ to be members or chairs of standing or limited-purpose committees, or to serve as liaisons to the TBCJ on particular subject areas or divisions within the TDCJ's jurisdiction, or both. The purpose of a committee, if appointed, is to have certain members become particularly familiar with various issues and to facilitate discussion and recommend potential strategies as appropriate.

(4) The TBCJ chairman may appoint non-members to sit on a committee in an advisory capacity; however, advisory members are non-voting members and cannot be reimbursed for expenses incurred in this capacity.

(c) Meetings.

(1) The TBCJ shall attempt to hold a regular meeting at least every other month of the year, but shall meet at least once each quarter of the calendar year pursuant to Texas Government Code §492.006. Special called meetings can be held at the discretion of the TBCJ chairman.

(2) TBCJ meetings shall be held in Austin or Huntsville, Texas. If the TBCJ uses video conference technology to convene a meeting, at least one conference site must be located in Huntsville or Austin. To convene a video conference meeting, a quorum of the TBCJ must be present at one of the video conference sites. The other members may convene using the technology from remote sites.

(A) During a TBCJ meeting convened as a video conference meeting, any member shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected.

(B) The TBCJ may continue the meeting only if a quorum remains present at the meeting location.

(3) The agenda and date for the TBCJ meetings shall be set by the TBCJ chairman in consultation with the TDCJ executive director.

(4) The agenda for committee meetings shall be set by the TBCJ chairman in consultation with the committee's chairman and the TDCJ executive director. If the TBCJ committee uses video conference technology to convene a meeting, at least one conference site must be located in Huntsville or Austin. To convene a video conference meet-