

**League of Women Voters of Texas**  
**Testimony: Subchapter B. Exportation and Importation of Waste**  
**To the Texas Low-Level Radioactive Waste Disposal Compact**  
**Commission**

**By Susybelle L. Gosslee**  
**Hazardous Waste Issue Chair**  
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The League of Women Voters of Texas has the following comments on Part 21, Texas Low-Level Radioactive Waste Disposal Compact Commission Chapter 675.21-24, Subchapter B. Exportation and Importation of Waste.

**Background**

The League of Women Voters of Texas supports policies that ensure the incorporation of adequate environmental safeguards with a strong role for public participation in radioactive waste management decisions. The LWV's approach to environmental protection and pollution control is one of understanding and problem solving. The interrelationships of air, water and land resources should be recognized in designing environmental safeguards. The League's environmental protection and anti-pollution goals aim to prevent ecological degradation and to reduce and control pollutants before they enter the environment.

Low-level radioactive waste is not low risk. Low-level radioactive waste will continue to pose a threat to human health, the ecology, and the environment for tens of thousands of years. Who is to say with accuracy what will happen over the next million years to the land formations over which low-level radioactive waste storage sites are located? Such expanses of time are difficult to comprehend. The formation of the Grand Canyon is a long-term geological example and the change in the status of the Russian government is a short-term example of threats that can arise to the safe and proper management of these radioactive waste sites. It is clear that responsible planning, engineering, monitoring and long-term care of low-level radioactive waste disposal facilities are critical to the safe and proper management of these wastes.

A viable long-term solution for safe storage of hazardous radioactive waste must be found, because the risks of exposure are so dangerous and the time period for storage is so incredibly long. It is clear that present radioactive waste isolation technologies are limited and inadequate to meet reliable and safety criteria for human health and the environment for the extended periods of time that will be necessary.

**Recommendations**

The League recommends the Compact Commission:

- Regulate the number and types of wastes allowed to enter radioactive waste storage facilities through rigorous administrative and technical review processes that are open for review by the public, other agencies, and public officials. We recommend strict fines and penalties for parties that violate the administrative and technical processes;
- Deny access of radioactive waste from non-compact states and foreign sources;
- Closely inspect and monitor the export and import of these wastes, the storage sites, and transportation process;
- Provide full disclosure of the waste application, characterization, and acceptance process, disclosure of all environmental monitoring data and processes, operation, and inspection;
- Create incentives to accelerate pollution and contamination controls;
- Create and use vigorous enforcement mechanisms, including sanctions for states and localities that do not comply with federal standards with substantial fines for noncompliance;
- Ensure transparency at all levels of the application, operation, inspection, and monitoring processes;
- Require Waste Control Specialists (WCS) and other operators to take full responsibility for their activities and decisions. Plan significant consequences for intentional and unintentional non-compliance;
- Develop radioactive waste transportation safety procedures throughout the state including on-going training for first responders in the areas through which the waste will travel;
- Increase security systems and equipment to protect people, public health, and the environment throughout transportation systems, including highways, railways, maritime shipping, and aviation;
- Ensure that WCS and other operators are legally and financially responsible for all risks associated with the transportation and storage of the materials it contracts to store;
- Ensure the disposal fees are sufficient to cover the costs of the measures outlined above and that these funds be under the control of the Commission, not deposited into the State's General Fund;
- Financial assurances should be increased, TCEQ should report the assumptions used to make the assessment of the assurances needed to ensure adequate funds are available for remediation with adjustments for inflation, and reserve funds to ensure availability if needed.

**Exportation and Importation of Waste To and From a Non-Party State for Disposal**

Texas and Vermont have a Compact Agreement to store their low-level radioactive waste. Taking additional waste from states other than Vermont and Texas or foreign countries to be stored at the WCS site is inconsistent with the intent of the Compact that has been approved by Vermont and Texas. The site will fill quickly with other states' additional radioactive waste and not be able to meet the needs of the two existing compact states. Since the site already has potential groundwater issues with the probability of geological changes during the next thousands of years, extra radioactive waste stored at the site in perpetuity creates additional stress on the environment due to the needed expansion of the site.

In addition, the transport of radioactive waste on public highways and rail increases the potential dangers to Texans, their health, and the environment. No other low-level radioactive waste should be imported into Texas to be stored at the WCS storage site other than waste from Vermont and Texas.

### **Risks**

The proposed rules are a major environmental rule change affecting the possible expansion of the site and the state finances. A fuller analysis of costs, benefits, and risks to the state is needed. The expansion of radioactive waste coming into, transported across, stored within the state in perpetuity, possible theft and terrorism, and the resultant risks need to be reviewed by the Texas Legislature.

With so little monitoring of the waste from its source to the waste site by the Compact Commission or TCEQ, there is a potential for having waste transported from foreign countries through a site in another state. The cost of this monitoring should be considered a business expense of WCS.

The transportation routes and the site must be secure. If waste is stolen at any point along the transportation route or from the storage site, it could pose a major security threat. Even though Homeland Security has developed procedures for transport of low-level waste increased amounts of waste in the transportation system add costs to local communities to ensure community safety. The Compact Commission, TCEQ, and WCS need to provide additional security funds from the revenues of the storage site.

Full disclosure of risks needs to be public information. Regulatory measures enacted by the government must ensure the operator uses best practices to protect public health and the environment. There is also a social demand for greater accountability for all those who work in the low-level radioactive waste industry.

### **Application Process**

The League is concerned that there will be little or no oversight of the application process. Potentially, the application process may be susceptible to manipulation and misrepresentation as to the character of the waste to be stored, which could put Texans at risk.

The proposed rules assume the fees generated by imported radioactive waste into Texas and disposed in the Compact Facility will be transferred to the State of Texas General Revenue Fund. The money will not be reserved to fund the costs associated with the continued operation and maintenance of the site and operations of the Compact Commission including professional and technical staff with the specific skills needed to oversee the processes of regulation, inspection, monitoring, transport, accident response and clean up, corrective action to failed facility components, the complete cost of long-term storage of the radioactive waste, and perpetual maintenance of the facilities.

The proposed rules document states, “At the time the Compact Facility becomes operational, there will be no additional cost to the State for administering the rules because the costs will be included in the disposal fee pursuant to §4.04(4) of the Compact.” According to §675.21 Exportation of Waste to a Non-Party State for Disposal (d), the non-refundable application fee of \$500.00 (a \$50 fee for seeking to export less than 100 cubic feet or less) seems grossly inadequate to address the total cost to properly evaluate and process an application.

Actual short- and long-term costs need to be determined and revealed to the public and elected officials so that appropriate and rigorous technical and financial planning can be accomplished in the open. As indicated above, disposal fees must be adequate to cover appropriate regulation, oversight, and inspection as well as training of first responders in case of emergency. Environmental protection and pollution controls, including waste management, must be considered as a cost to providing a product or service. We are in a largely uncharted arena, but do have some basis to establish those costs. Andrews County officials and residents, state and federal governmental agencies, and WCS must have a plan that delineates long-term care and response activities and their cost. This plan and its associated costs must be scrutinized by multiple qualified parties to assure Texans that their health, safety, and finances will not be compromised by the Andrews County facility.

The Proposed Rule anticipates “that an engineering professional (or similar) would likely be required to compile the required information (shown in §675.21(e) and (h) of \$50 to \$100 per hour, depending on the organization and the relationship of the engineering professional to the waste generator (i.e. employee or consultant), the overall cost to persons required to comply with the rule could range from an estimated low of

\$450 for small volume waste generators to an estimated high of \$1,300 for large volume generators.” All of this infers that the waste generator will inspect and monitor their waste and make reports to the Compact Commission. We should not infer, we should be guaranteed that the generator will be inspected and monitored by the Commission’s professional staff.

The League supports staff for the Compact Commission who will develop a first rate, independent inspection system with well-trained professionals using the most up-to-date methods to ensure safe treatment, transportation, storage, and disposal of the waste in order to protect public health and the environment. The League thinks that environmental protection and pollution controls, including waste management, must be considered as a cost to providing a product or service.

### **Long-Term Financial Assurances**

The League continues to be concerned about the amount and types of financial assurances the operator must post to assure the Compact Commission and the people of the State of Texas that there will be sufficient financial resources retained and available for proper closure and long term environmental monitoring and care of the facility. We are concerned about the methods used to estimate the required financial assurance amounts and the form of instruments utilized to provide the assurance. Although we are able to find references to the amounts of the required assurances in the permit applications, we were unable to find any detail regarding these estimates. We urge the Compact Commission to use diligent and appropriate means to determine the proper amount of assurance needed as the facility expands and regularly provide the details of those estimates to the public.

We strongly encourage a more thorough review and estimation of the cost of long-term care and the potential cost of corrective actions that may become necessary in the event of an accident or failure of the engineering design and controls due to human acts or acts of nature or terrorism. At this time of economic insecurity, it is critical that the State have more than adequate financial assurances that WCS and potential future operators will be able to respond to normal as well as unexpected liabilities and long-term care requirements.

### **Submission of Comments**

Generally, the Compact Commission has not fully informed the population of Texas about proposed regulatory rule changes for low-level radioactive waste storage with public announcements other than in the State Register, which very few read. A democratic form of government is dependent upon the informed consent of the people. The League recommends that the Compact Commission and the TCEQ increase the distribution of

notices about its work so that transparency and informed decisions can be made by public officials and voters. A window of thirty days for public comment on proposals is meaningless when no one knows of the opportunity. It is also troublesome that the Commission decided to finalize these regulations during the holiday season when the public is focused on family. We respectfully request that the comment period on these proposed regulations be extended to at least February 1, 2011, to allow time for adequate public comment.

### **Conclusion**

Thank you for helping to ensure that people, public health, and the environment remain safe **with the creation of** a system administering the technical review processes, inspecting and monitoring the entire low-level radioactive waste disposal and storage process, and enforcing meaningful financial consequences for not following the safest procedures. Thank you for your consideration of our suggestions.