

## **Prevent Texas from Becoming the Nation's Radioactive Waste Dump**

**The Texas Low Level Radioactive Waste Disposal Compact Commission is rushing a rulemaking on the import of so-called “low-level” radioactive waste, possibly allowing the entire country to dump nuclear waste at the Waste Control Specialists’ West Texas site. Other Compacts in the country have excluded out-of-Compact radioactive waste, and the Texas-Vermont Compact should do the same.**

**The Compact Commission meets on May 11, 2010 in Andrews, Texas to vote on whether or not to approve the import rule.**

**The rulemaking process is being irresponsibly rushed, and Compact Commissioners should not approve the import portion of the rule.**

The Compact Commission is rushing ahead with this proposed rule, even though the TCEQ license has been appealed, the site has yet to be constructed, and the Compact Commission does not have adequate resources. The Commission does not have the funding for staff to review proposed importation agreements; cannot afford to come to the public hearings on the rule; stated at their last meeting that they didn’t know if they would have enough funds to make it through this rulemaking process; cannot afford an attorney; and does not have bylaws yet. It is irresponsible and detrimental to the public interest to move forward with the rule in these circumstances. The only entity that benefits from this rule and rushed process is the private company WCS, which stands to make millions on the imported waste. This rulemaking process must be halted until it can be done properly.

### **Environmental Concerns with the Site**

An environmental analysis performed by the Texas Commission on Environmental Quality found problems with the site, including possible pathways to underground aquifers. The politically appointed TCEQ commissioners ignored the scientists’ findings and unanimous recommendation not to issue the license and issued the license anyways. Three TCEQ staff members have resigned as a result. The license has been appealed by the Sierra Club.

## **What’s Wrong with the Import Rule?**

### **No Limitations on Waste**

There are no limits in the rule for what can be imported. Radioactive waste should be limited to just the Compact member states – Texas and Vermont. Other Compacts in the country have excluded out-of-Compact radioactive waste, and the Texas-Vermont Compact should do the same. There is not enough capacity at the WCS site as licensed for the Texas and Vermont waste. Opening up to more waste predetermines that TCEQ will have to expand the license even though challenges to this license are still in the courts. (License is for 2,310,000 cubic feet of nuclear waste but the Compact Commission has said Vermont needs 1 million and Texas needs 5 million.) At a very minimum, the rule must include a limit to how much waste, in volume and curie levels, can be imported. The rule must also include an absolute ban on foreign radioactive waste.

### **No Consideration of Texas Liability**

Texas will take title and liability to the waste once it enters the state and will be responsible for cleanup costs if and when the site leaks. The rule discusses the positive fiscal benefits of the rule but none of the liabilities. The rule should discuss the liability it creates for Texas taxpayers, who will ultimately face the financial and environmental burden of radioactive waste lasting thousands of years.

### **Not Considered an Environmental Rule and No Environmental Impact Analysis**

Approving this rule would be putting forth a “major environmental rule” without the required impact analysis. (See TX Gv. Code § 2001.0225) An independent environmental impact statement should be required before this rule can go forward. This rule will be used by utilities wanting to build new nuclear power reactors to justify making more waste even though the WCS site has limited capacity. This rule could dramatically increase the amount of waste that comes to the site and increase the threats to the environment and public health.

### **No TCEQ Approval of the Waste Required**

This import rule would allow WCS to obtain contracts to bring in more waste with no environmental analysis and without adequate licensed capacity. No radioactive waste streams outside of Texas and Vermont have been evaluated by TCEQ. The rule must require TCEQ technical evaluation and approval of the waste before it is imported into the state. Likewise, the rule must require that before the Compact Commission can consider an import agreement, WCS needs a TCEQ amendment to its license for the waste it wishes to import.

### **Transport Never Assessed**

There are no provisions in the rule governing the transport of radioactive waste which will come in on trucks and trains through Texas communities. An independent and comprehensive transportation safety and impact study must be a condition of any consideration of all waste coming into Texas. If an accident occurs, state and local governments would be responsible for the emergency response and for taking actions to protect the public health and safety. The rule should include a requirement to notify emergency service providers 24-hours in advance of import and export shipments so that they can be prepared with proper equipment if they need to respond to a train or truck accident during transport of radioactive waste. The possibility and consequences of an accident during transport should also be considered in the rule as a liability for Texas. The rule should require a comparison of the manifest of the waste from its originating point to the waste that arrives at the WCS site.

### **WCS is Importing Radioactive Waste Now**

WCS is currently importing waste under their storage license. The compact commission governs the management and disposal of waste, and management includes storage. This rule must require WCS to seek Compact Commission approval to import out-of-Compact waste under their existing storage license.

### **No Public Participation Process on Future Imports**

The 20-day comment period briefly mentioned in the rule is inadequate and prevents public participation. The rule must specifically outline the public input process – how and when the public will be informed of an import petition, how the public can participate, and how public comments will be considered by the Commission.

## **What Can You Do?**

- **Contact your City and State Representatives.** Urge them to tell the Compact Commission to stop this rulemaking process until public health and safety concerns are met, and ask them to speak out publicly on this issue.
- **Contact the Compact Commission.** Ask that the rulemaking process be halted until concerns outlined above have been met. Commission can be contacted by email at: [margaret.henderson@tllrwdcc.org](mailto:margaret.henderson@tllrwdcc.org)
- **Support the work of the Nuke Free Texas Coalition and donate online at [www.NukeFreeTexas.org](http://www.NukeFreeTexas.org)**

*More information about the proposed import rule can be found at the Commission's website at <http://www.tllrwdcc.org/rule.html> and <http://nukefreetexas.org/proposed-nukes/wcs-andrews-waste-dump>*