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DOCKET NUMBER
PETITION RULE PRM 30-64
(65FR49207)

October 23, 2000

Secretary
U.S. Nuclear Regulatory Commission
Attn: Rulemakings and Adjudications Staff
Washington, D.C. 20555-0001

Re: Docket No. PRM-30-64

Dear Secretary:

Staff members of the Texas Department of Health, Bureau of Radiation Control (BRC), have reviewed the petition for rulemaking filed by Mr. Charles T. Gallagher of Gammatron, Inc. and offer the following comments.

The BRC is not aware of any situation specific to the petitioner that would have resulted in the petitioner or other Agreement State licensees not being provided the opportunity to comment on the U.S. Nuclear Regulatory Commission's proposed rules concerning financial assurance. The petitioner, along with all other licensees in Texas and the general public, had the opportunity to comment on the equivalent financial assurance requirements when they were proposed and published in the Texas Register on February 26, 1993. A fiscal impact note was included as a part of that published proposal.

The BRC does not agree with the petitioner's first belief that financial assurance requirements should be required for all licensees, irrespective of the quantity of licensed material a licensee may possess. The petitioner makes the assumption that the larger the quantity of material possessed by the licensee, the larger the licensee's safety program, the more careful the handling procedures, the more elaborate the equipment, and the more extensive the experience and education. This assumption appears to indicate that the petitioner believes financial assurance is required solely to remediate contamination and that a licensee authorized possession of larger quantities of material is more capable of avoiding contamination. The intent of financial assurance is to ensure that, should the licensee's operation be "abandoned" (as in a bankruptcy situation) and the state government become responsible for ensuring safe release of the site, sufficient funds are available to dispose of any radioactive sources and waste and to decontaminate if necessary.

The BRC disagrees with the petitioner's second belief that the methods included in the rule by which a small business licensee can provide surety should be expanded over a longer period of time rather than all at once before the application for a license is approved. Businesses can fail at any time, including soon after beginning. In order to be adequately protective of the fiscal interests of the state, financial assurance must be provided in an amount sufficient to decommission the license assuming the licensee has taken possession of all the material authorized by the license Because of this, the applicant should only request authorization for the amount of material actually planned to be possessed. If the licensee's operation grows, and amendments are submitted requesting increases in the radioactive material possessed, then the amount of financial

assurance should increase commensurately.

The BRC agrees with the petitioner's third belief that it is impractical for regulatory agencies to attempt to determine the costs associated with the disposal of waste for which no disposal site is available.

We appreciate the opportunity to provide comments. If you have any questions, please contact me at Richard.Ratliff@tdh.state.tx.us or 512-834-6688.

Sincerely,

Richard A. Ratliff, P.E., Chief
Bureau of Radiation Control

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