



Texas Department of Health

William R. Archer III, M.D.
Commissioner

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Patti J. Patterson, M.D., M.P.H.
Executive Deputy Commissioner

Radiation Control
(512) 834-6688

Ref: IW010

November 29, 2000

U S NUCLEAR REGULATORY COMMISSION
ATTN RONALD D HAUBER, DEPUTY DIRECTOR
OFFICE OF INTERNATIONAL PROGRAMS (4E9)
WASHINGTON DC 20555-0001

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Dear Mr. Hauber:

This is in reference to (1) your letter dated August 2, 2000, to Richard Ratliff, Chief, Bureau of Radiation Control (BRC), Texas Department of Health (TDH), (2) U.S. Nuclear Regulatory Commission (NRC) Import License Number IW010, dated November 8, 2000, (3) a telephone conversation, November 27, 2000, between Mr. Marvin Peterson of your office and Mr. Peter Myers of my office, and (4) a telephone conversation, November 28, 2000, between Mr. Don Barbour of Philotechnics, Inc., and Mr. Peter Myers of my office.

The exemption for depleted uranium aircraft counterweights in both U.S. NRC regulations [Title 10 Code of Federal Regulations Section 40.13(c)(5)] and TDH BRC regulations [Title 25 Texas Administrative Code (TAC) Section (§) 289.251(d)(3)(E)] is applicable only to counterweights installed in aircraft or stored or handled in connection with installation or removal of such counterweights; and manufactured in accordance with a specific license issued by the NRC. Because the counterweights in question do not meet the conditions specified in regulation for exemption, it is BRC's position that the counterweights are not exempt from regulation and must be disposed in a facility licensed for the disposal of radioactive material. Waste Control Specialists in Andrews County, Texas, is not licensed for the disposal of radioactive material and may not accept the counterweights for disposal.

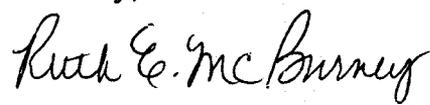
During the telephone conversation between Mr. Barbour and Mr. Myers, referenced above, it was agreed that Philotechnics would submit a request for an exemption from 25 TAC §289.251(d)(3)(E) to BRC; the basis for exemption would include (1) information on an NRC Work Group convened to develop harmonized, risk-based exemption criteria for (unwanted) radioactive material and (2) an analytical demonstration that the risk to public health and safety, and the environment is acceptable. BRC will notify Philotechnics, in writing, of the approval or disapproval of the request.

I regret any inconvenience the delay in formally expressing this position may cause.

Mr. Ronald D. Hauber
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If you have any questions regarding the information contained within this letter, please contact Mr. Peter H. Myers, Deputy Division Director, Licensing, at (512) 834-6688 extension 2209.

Sincerely,



Ruth E. McBurney, CHP, Director
Division of Licensing, Registration and Standards
Bureau of Radiation Control

cc: Philotechnics, Inc.
Attn: Mr. Don Barbour
P.O. Box 4489
Oak Ridge, TN 37831-4489

Waste Control Specialists
Attn: Mr. Bill Dornsife
1710 W. Broadway
Andrews, TX 79714

Texas Natural Resources Conservation Commission
Attn: Mr. Wade Wheatley, I&HW Permits Section MC 130
P.O. Box 13087
Austin, TX 78711-3087

Texas Natural Resources Conservation Commission
Attn: Ms. Alice Rogers, UIC and Radioactive Waste Section MC 131
P.O. Box 13087
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