

From: Paul Lohaus
To: Ruth McBurney
Date: 9/5/02 12:00PM
Subject: Re: TX Petition for Rulemaking

Ruth:

Thanks. We have this and we are proceeding to complete a response to you. Dennis Sollenberger has lead. If you have any questions on status, etc. please contact either one of us.

Paul

>>> Ruth McBurney <Ruth.McBurney@tdh.state.tx.us> 09/05/02 11:50AM >>>

On August 6, 2002, we sent the NRC Office of State Programs a copy of a petition for rulemaking that the Texas Department of Health had received from Waste Control Specialists LLC (WCS) on July 26, 2002. The petition concerned the exemption of certain concentrations of radioactive waste from the requirement to be disposed of at a low-level radioactive waste site as long as it was disposed of in a RCRA permitted facility.

Because of time restrictions in our state law regarding the handling of petitions for rulemaking, we scheduled the petition to be considered by the Texas Board of Health on September 5, 2002.

We were advised by our Office of General Counsel that the agenda item for the Board meeting needed to include a staff recommendation as to whether to proceed with rulemaking or deny the petition. Because of transboundary implications and ongoing rulemaking efforts at the federal level at NRC and EPA, we felt we needed to have input from the federal agencies before we could commit to continuing with a rulemaking effort. Therefore, based on that and the fact that the petition would require an extensive technical review by staff, we proposed to deny the petition at this time.

Subsequently, WCS has withdrawn the petition in order not to have it denied, with the understanding that the Bureau of Radiation Control will continue to gather information and research the feasibility of such a rulemaking in the future. Therefore, we would still appreciate the NRC's input on the issues and implications involved with the original petition. I understand from our telephone conversation that it may need to be considered at the Commission level.

Thank you for your continuing work on this matter. If you have any questions or need to discuss any of the issues surrounding the petition for rulemaking, please feel free to contact us.

Ruth McBurney
Bureau of Radiation Control
TX Dept. of Health

CC: Cardelia Maupin; Dennis Sollenberger; Richard Ratliff