



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-4005**

July 6, 2004

Ms. Susan Jablonski, Technical Advisor  
Office of Permitting, Remediation  
and Registration  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC 122  
Austin, Texas 78711-3087

Dear Ms. Jablonski:

A periodic meeting with the Texas Commission on Environmental Quality (the Commission) was held on June 7, 2004. The purpose of this meeting was to review and discuss the status of Texas' Agreement State Program. I have completed and enclosed a general meeting summary, including any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8143 or e-mail [VHC@NRC.GOV](mailto:VHC@NRC.GOV) to discuss your concerns.

Sincerely,

*/RA/*

Vivian H. Campbell  
Regional State Agreements Officer

Enclosure:  
Agreement State Periodic Meeting  
Summary for the Commission

cc w/enclosure:  
Paul Lohaus, Director, OSTP

Susan Jablonski

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bcc w/enclosure via e-mail ADAMS distribution:

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DOCUMENT NAME: s:\dnms\sao\periodic meetings\2004\TCEQ summary.wpd final: s:\dnms\ltrs-memos\

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## AGREEMENT STATE PERIODIC MEETING SUMMARY FOR THE COMMISSION

DATE OF MEETING: June 7, 2004

### ATTENDEES:

#### NRC

Vivian Campbell, Regional State Agreements Officer (RSAO)  
Elmo Collins, Director, Division of Nuclear Materials Safety, Region IV  
Patricia Larkins, Office of State and Tribal Programs (STP), by telephone

#### The State of Texas

Susan Jablonski, Low-Level Radioactive Waste Specialist, Office of Permitting, Remediation and Registration  
George FitzGerald, Team Leader, Waste Permits Division, Office of Permitting, Remediation and Registration  
Don Redmond, Staff Attorney, Environmental Law Division, Office of Legal Services  
Dan Eden, Acting Deputy Director, Office of Permitting, Remediation and Registration

### DISCUSSION:

The Texas Agreement State Program is administered by two State agencies, the Texas Department of Health and the Texas Commission on Environmental Quality (the Commission). The Commission has regulatory responsibility for low-level radioactive waste disposal sites and the decommissioning of former burial sites. The last Integrated Materials Performance Evaluation Program (IMPEP) Review of Texas' Agreement State Program was August 27-31, 2001, and the last periodic meeting was held on December 2, 2002.

The following is a summary of the meeting held in Austin, Texas, on June 7, 2004, between representatives of the NRC and the Commission. During the meeting, the topics suggested in the letter dated April 12, 2004, from Ms. Campbell to Ms. Jablonski were discussed. The discussion pertaining to each topic is summarized below.

#### 1. Strengths and Weaknesses of the Program

##### a. Program strengths:

The Commission has received good support from management and the legislature in preparation to receive applications for the low-level radioactive waste disposal site. The staff has doubled in size since the last periodic meeting. They anticipate receiving an additional 1.5 FTE for the next fiscal year for the Commission's Office of Legal Services. In addition, management has approved a process for contracting additional technical

support through interagency contracts to augment their technical expertise where needed.

The Commission implemented the low-level radioactive waste disposal site rulemaking package in seven months. They met the legislature's statutory deadline which was a major accomplishment.

b. Program weaknesses:

The Commission expects to receive applications for the low-level radioactive waste disposal site by August 6, 2004. The formal review process will begin at that time. Since this is a new process, the Commission acknowledged that the staff will be learning during the process.

3. State Feedback on NRC's Program

Training is a major concern for the Commission because of the need to train the new staff. The State is still experiencing travel restraints; therefore, out-of-state travel is a challenge. All out-of-state travel must be approved by the Deputy Director of the Office of Permitting, Remediation and Registration. The Commission indicated that it would be beneficial if more training could be regionalized. The Commission is particularly interested in the Inspecting for Performance course, the MARSSIM course, and a transportation course specific to transporting low-level radioactive waste. The Commission expressed their willingness to host any of these courses and indicated that they have a training facility. The RSAO coordinated with STP staff and instructed the Commission to prepare a letter to STP outlining their request to provide these training courses. STP will then forward the letter to Technical Training Division in Chattanooga to determine the feasibility.

4. Status of State Program

a. Staffing and training:

- i) As discussed earlier, the program has doubled its staff since the last periodic meeting and training the new staff is a challenge for the Commission.
- ii) The Commission indicated that there are no vacancies.
- iii) The Commission had two staff retire during the period. However, they were able to fill both positions promptly.
- iv) The Commission has adequate FTEs to complete the permitting action. They have not developed an inspection program specific to the new low-level radioactive waste disposal licensing action.

- b. Inspection Program:
  - i) The Commission does not anticipate implementing an inspection program until the license is issued and construction is underway. They will be establishing a resident inspection program specific to the new low-level radioactive waste disposal licensing action. Currently, the Commission has one FTE on staff who is experienced in inspection of radioactive material disposal facilities.
- c. Regulations and Legislative changes:
  - i) The Commission's Low-level Radioactive Waste rules are finalized and became effective January 8, 2004. They will need to promulgate rules for fee setting for commercial disposal of low-level radioactive waste.
- d. Program reorganizations:
  - i) The Commission was reorganized approximately five years ago into functional units (Refer to the attached organization chart). Licensing of the low-level radioactive waste disposal site is the responsibility of the Waste Permits Division of the Office of Permitting, Remediation and Registration. The inspection and associated enforcement activities are the responsibility of the Office of Compliance and Enforcement. Both Offices report to the Executive Director, who reports directly to the Commissioners. The Commission does not anticipate any further reorganization at this time.
- e. Changes in Program budget/funding:
  - i) The Commission expects to get an increase in their budget once they have an applicant, based on the acquired fees. The applicant is required to pay a non-refundable application fee in addition to cost-based fees.

5. Event Reporting

The Commission has not had an event item to report to NRC during this period. However, the staff is aware of the NMED system and the procedures for event reporting in STP procedure SA-300.

6. Response to Allegations

No allegations were referred by NRC to the State during the period.

7. Information exchange and discussion

a. Current State initiatives:

The Commission expressed concern about the advanced notice of proposed rulemaking (ANPR) issued by EPA on November 18, 2003. The notice outlined methods that EPA is considering to improve the safe management and disposal of waste containing small amounts of radioactive materials ('low-activity' radioactive waste). The comment period closed on May 17, 2004. The Commission expressed

its concern that this regulation could undermine the viability of the low-level radioactive waste disposal site and requested feedback from NRC.

The RSAO informed the Commission that EPA had received approximately 1500 comments. No decisions have been made and both NRC and EPA will be evaluating the feasibility of pursuing this rulemaking. The Commission was provided the link to EPA's web site in order to follow their efforts on Mixed Waste, including the ANPR and the comments.

b. State's mechanisms to evaluate performance, as applicable:

The Commission has internal auditors that assess the performance of the program and conduct management risk assessments. The Commission will also be providing periodic update on the progress of licensing the disposal site to the Commissioners and the Texas Legislature.

8. Schedule for the next IMPEP review.

The next IMPEP is tentatively scheduled for September 2005. The Commission requested that NRC consider scheduling the IMPEP late in September because they will be heavily involved in the license application technical review.