



DESIGNATED ORIGINAL

TEXAS DEPARTMENT OF STATE HEALTH SERVICES

EDUARDO J. SANCHEZ, M.D., M.P.H.
COMMISSIONER

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September 15, 2005

50-029

U.S. NUCLEAR REGULATORY COMMISSION
NMSS
WASTE MANAGEMENT AND
ENVIRONMENTAL PROTECTION
ATTN THEODORE SMITH PROJECT MANAGER
MAIL STOP T7E18
WASHINGTON DC 20555-0001

Dear Mr. Smith,

We have received your draft environmental assessment dated September 1, 2005, related to approval of disposal procedures in accordance with Title 10 Code of Federal Register (CFR) §20.2002. The radioactive waste that you have described as having originated from licensed activities at Connecticut Yankee Atomic Power Company is not exempt by Texas regulations. The State of Texas lacks an equivalent rule to the NRC's 10 CFR §20.2002, or any authority to accept a custom "Environmental Assessment of No Significant Impact" for purposes of disposal in Texas performed by another regulatory agency if it includes material that our rules have not exempted. Therefore the waste described in your assessment cannot be accepted as exempt waste at a Texas Commission on Environmental Quality (TCEQ) permitted Hazardous Waste disposal facility located in Andrews County, and identified as Waste Control Specialist LLC. Only material which has been exempted by Texas rules may be accepted for disposal at a RCRA landfill without regard for its radioactivity.

If you would like to discuss this matter or need clarification regarding our comments, please contact David Wood of my staff, at (512) 834-6688, extension 2208.

Sincerely,

Ruth E. McBurney

Ruth E. McBurney, Manager
Radiation Safety Licensing Branch

CC - Paul Lohaus, NRC

Bill Dornisfe, WCS

Susan Jablonski, TCEQ

NMSS01

Add: Theodore Smith
Paul Lohaus