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TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

October 4, 1999

DOCKET NUMBER

PETITION RULE PRM 40-27
(64FR36615)

Secretary
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attn: Rulemakings and Adjudications Staff

Re: Comments on Petition for Rulemaking

The Texas Natural Resource Conservation Commission (TNRCC) supports the petition for rulemaking submitted by the State of Colorado and the Organization of Agreement States to eliminate blanket exemptions for source material general licensees from the requirements of 10 CFR Parts 19 and 20. As the agency responsible for overseeing the Resource and Conservation Recovery Act (RCRA) Title C and D programs and disposal of most radioactive materials, we are concerned with the lack of protection afforded workers and the general public from generally licensed source materials.

Some of the major points put forward in the notice that we are especially concerned about include:

1) *All licensees (whether specific or general) who create similar hazards should be required to eliminate the hazard.* The TNRCC agrees that regulation should be based on risk to worker and public health and safety and that all persons who create similar hazards should be required to eliminate the hazard.

2) *Industrial experience is that source material licensees can expose workers to levels of radiation that would not be allowable for specific licensees.* The TNRCC has no information regarding possible exposure of workers at municipal solid waste (MSW) disposal facilities in Texas. Most MSW disposal facilities in Texas do not have equipment to screen incoming waste for levels of radioactivity.

3) *The U.S. Nuclear Regulatory Commission (NRC) exemptions for source material general licensees allow potentially dangerous radioactive material to be transported into States without the knowledge or control of the States.* The TNRCC is concerned that potentially dangerous radioactive materials are being transported into this state for disposal without the knowledge or control of this state. In addition, the TNRCC is required by

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state statute to keep records of all radioactive materials disposed of in Texas, but is hindered in this responsibility by the lack of NRC manifesting requirements for general licensed materials.

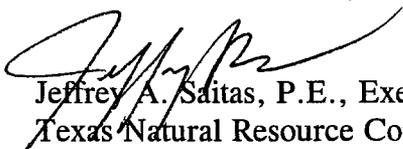
4) *Recipients of generally licensed waste are often unaware of any hazards and may pass the hazard on to another waste handler who is also unaware of potential exposure.* As mentioned above, most Texas MSW facilities do not have radiation detectors and do not have trained staff to safely handle radioactive materials.

5) *General licensees do not view waste disposal as an issue because of the perception that since the waste is generally licensed, the waste is just common trash.* The TNRCC has observed this perception among the regulated public in other programs and believes that the complete exemption of a waste from regulation regardless of the level of risk involved, encourages the misconception that the waste can be safely handled and disposed of in any manner.

6) *Generally licensed source material is not subject to safety requirements of Parts 19 and 20, regardless of potential or actual risk.* The TNRCC reiterates that the actual risk to worker and public health and safety and not who controls the waste or the origin of the waste, should be the determining factor in deciding whether adherence to basic radiation standards needs to be required.

We, therefore, concur with the petitioners' request to amend the NRC's regulations so that all source material that exceeds public dose limits or generates a radiation area is subject to the radiation protection and worker notification requirements of Parts 19 and 20. We believe that the NRC should support this effort to place stricter regulation on waste based upon potential exposure to workers and the public, rather than the source of the waste.

Sincerely,


Jeffrey A. Saitas, P.E., Executive Director
Texas Natural Resource Conservation Commission

JAS/KV/jb