

November 8, 2012

Mr. John Hageman, Radiation Safety Officer
Southwest Research Institute
6220 Culebra Road
San Antonio, TX 78238-5166

SUBJECT: RESPONSE TO EXEMPTION REQUEST FOR A SPECIFIC U.S. NUCLEAR
REGULATORY COMMISSION LICENSE FOR THE RELEASE OF SLIGHTLY
CONTAMINATED TEST FLUIDS

Dear Mr. Hageman:

Thank you for taking the time on August 16, 2012, to discuss a few questions the U.S. Nuclear Regulatory Commission (NRC) staff had regarding your January 24, 2012 exemption request for a specific NRC license (Agencywide Documents Access and Management System No. ML12249A107). Your request was to exempt from NRC licensing slightly contaminated test fluids used at your facility. As discussed during the call, NRC staff has made the following determinations:

- Southwest Research Institute (SwRI) is located in an Agreement State; therefore, Texas would need to evaluate SwRI's request under its 10 CFR § 20.2002-equivalent regulations to dispose of the fluids at an unlicensed facility. If Texas has not adopted 10 CFR § 20.2002-equivalent regulations, Texas may approve SwRI's request using its specific exemption authority. NRC involvement is not required for this action.
- If SwRI decides to send these test fluids to a disposal facility located in Texas, then Texas has jurisdiction over this action. Texas would need to license or issue an exemption for the unlicensed facility. NRC involvement is not required for this action.
- If SwRI decides to send these test fluids to an unlicensed facility outside of Texas and the destination state is another Agreement State, both Texas and the other Agreement State would need to be involved. Texas would need to approve the disposal under its 10 CFR 20.2002-equivalent regulations or its special exemption authority. The unlicensed facility would need to obtain a license or an exemption from its Agreement State prior to accepting the material for disposal. NRC involvement is not required for this action.
- If SwRI decides to send these test fluids to an unlicensed facility outside of Texas and the destination State is not an Agreement State, both Texas and the NRC would need to be involved. Texas would need to approve disposal under its 10 CFR 20.2002-equivalent regulations or its special exemption authority. The unlicensed facility would need to obtain a license or an exemption from the NRC prior to accepting the fluids for disposal.

J. Hageman

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On March 13, 2012, NRC sent the enclosed letter, "Clarification of the Authorization for Alternate Disposal of Material Issued under 10 CFR 20.2002 and Exemption Provisions in 10 CFR," to all Agreement States. The letter clarifies the use of 10 CFR 20.2002 alternate disposal authorizations and 10 CFR exemptions and equivalent Agreement State processes for the disposal of radioactive materials in Resource Conservation and Recovery Act disposal facilities or other unlicensed facilities. The letter clarifies the use of these processes when the unlicensed facility is located in the same State or in another State.

In discussions with our staff, you stated you would be transferring the test fluids to a facility in either Texas or Kansas, both Agreement States. As such, we would not be involved in approving the transfer and are discontinuing work on your request. However, if the fluids are transferred to an unlicensed facility in a non-Agreement State, then the NRC will need to be contacted for approval.

If you have any questions, please contact Mr. Don Lowman at 301-415-5452, or at Donald.Lowman@nrc.gov.

Sincerely,

/RA/

Brian J. McDermott, Director
Division of Materials Safety
and State Agreements

Enclosure:
FSME letter dated March 13, 2012
(ML12065A038)

cc: See next page

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Sincerely,

Brian J. McDermott, Director
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cc:

Richard A. Ratliff
Radiation Safety Licensing Branch Manager
Division for Regulatory Services
Texas Dept. of State Health Services
P.O. Box 149347-Mail Code 2835
Austin, Texas 78714-9347

Charles Maguire, Director
Radiation Materials Division, MC 233
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087