



Texas Department of Health

Robert Bernstein, M.D., F.A.C.P.
Commissioner

1100 West 49th Street
Austin, Texas 78756-3189
(512) 458-7111

Radiation Control
(512) 835-7000

Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services

Hermas L. Miller
Deputy Commissioner
Management and Administration

January 29, 1991

Mr. James Kennedy
Office of Nuclear Materials Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: SECY 90-318

Dear Mr. Kennedy:

Staff members of the Bureau of Radiation Control (BRC) have reviewed the document entitled, "Request for Comment on the Title Transfer and Possession Provision of the Low-Level Radioactive Waste Policy Amendments Act of 1985," and offer the following comments:

The Texas Low-Level Radioactive Waste Disposal Authority (TLLRWDA) is a state agency, separate from the Texas Department of Health, charged with the siting, development, and operation of a permanent low-level radioactive waste (LLW) disposal facility. The Texas Department of Health, under the agreement with the Nuclear Regulatory Commission, is the state agency with the authority to license and inspect such a facility. Should a permanent disposal facility for LLW not be available in Texas by January 1, 1996, the TLLRWDA will be the state agency responsible for storage and management of LLW. Therefore, many of the questions posed by the NRC are not applicable to Texas.

Staff members of the BRC agree with the NRC staff position recommending issuance of letters to governors which reiterate the various regulatory and technical considerations associated with the title transfer and possession provisions of the LLRWPA, with particular emphasis on storage.

In addition, transfer of title and possession must occur simultaneously. The State of Texas will not assume the liability of title while the responsibility of possession remains with another entity.

If you have questions concerning these comments, please contact me.

Yours truly,

David K. Lacker, Chief
Bureau of Radiation Control