

PL/C. KAMMERER

- 1 -

JAN 17 1990

MEMORANDUM FOR: Carlton Kammerer, Director
State, Local and Indian Tribe Programs, GPA

FROM: Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

SUBJECT: TEXAS' DRAFT CHANGES TO URANIUM RULES

By memorandum dated December 7, 1989, you requested our comments on Draft 4 of the Texas Regulations for Licensing of Uranium Recovery Facilities. The March 28, 1988, document "Guidance on Technical Assistance Requests from States and Compacts" lays out a procedure for review of Agreement State regulations related to low-level waste. We suggest a process similar to that discussed in item II of the attachment to that document be followed for the review of uranium recovery regulations. We, therefore, would appreciate your assistance in determining whether NRC's previous comments have been addressed by Texas and whether there are any new issues due to revisions in the text which require technical review by LLWM staff. Our staff reviewed an earlier version of these regulations and worked with your staff to prepare a set of comments which were transmitted to Region IV by memorandum from Vandy L. Miller to Robert J. Doda, January 11, 1989.

We are concerned about the definition of byproduct material in these regulations because it is more encompassing than the definition in 10 CFR Part 40. Texas' definition includes material that we (and probably DOE) would not consider to be byproduct material, thus leading to the possibility of problems if the DOE is requested to become perpetual custodian of a site containing such material. We suggest that this concern be highlighted to the State of Texas.

(Signed) Robert M. Bernero

Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Distribution: (# 8900637) Central File # 414.6 NMSS r/f
 RBernero RBangart JGreeves MBell JSurmeier PLohaus
 GARlotto CJenkins JJones t/f JJones r/f JLepre t/f

PDR YES
 PDR NO
 ACNW YES NO Category: Proprietary or CF Only

SUBJECT ABSTRACT: TEXAS' DRAFT CHANGES TO URANIUM RULES
 * See Previous Concurrence

OFC :LLOB* :LLOB* :LLWM* :LLWM* :NMSS :NMSS
 NAME:MF11/11/89/jj:PLOhaus :MBell :RBangart :GARlotto :RBernero
 DATE:12/20/89 :12/20/89 :12/21/89 :01/11/89 : / /89 : / 11/89

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We are concerned about the definition of byproduct material in these regulations because it is more encompassing than the definition in 10 CFR Part 40. Texas' definition includes material that we (and probably DOE) would not consider to be byproduct material, thus leading to the possibility of problems if the DOE is requested to become perpetual custodian of a site containing such material. We suggest that this concern be highlighted to the State of Texas.

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NAME: MFliegel/jj: PLohaus :MBell :RBangart :GARlotto :RBernero

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We are concerned about the definition of byproduct material in these regulations because it is more encompassing than the definition in 10 CFR Part 40. Texas' definition includes material that we (and probably DOE) would not consider to be byproduct material, thus leading to the possibility of problems if the DOE is requested to become perpetual custodian of a site containing such material. We suggest that this concern be highlighted to the State of Texas.

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Robert M. Bernero, Director
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 DATE:12/20/89 :12/20/89 :12/24/89 : / /89 : / /89 : / /89

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Bell, Sarma. cc copies

Ticket

DATE RECEIVED: 12/08/89 ORIGINAL DUE DT: 01/03/90 CONTROL NO: 8900537 ✓
DIVISION DATE: 01/05/90 DOC DT: 12/07/89
FROM: TIME: COMP DT:

epo. 1/12/90

Kammerer
SLITP

TO:
Bernero

FOR SIGNATURE OF: ** BLUE ** SECY NO:

ASSIGNED TO: CONTACT:

LLW
FR
12/08/89

DESC:

ROUTING:

TEXAS DRAFT CHANGES TO URANIUM RULES

Bernero
Arlotto
Funches
Jenkins

SPECIAL INSTRUCTIONS OR REMARKS:

M. Fleegle

Paul -
you may want to ~~turn~~ turn
this out to URFO. It's
ok in my view to respond
by saying higher priority
work didn't allow us to
review.
Dick E.
12/08/89