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## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

April 15, 1997

Mr. Paul H. Lohaus, Deputy Director  
 Office of State Programs  
 United States Nuclear Regulatory Commission  
 Washington, DC 20555-0001

Dear Mr. Lohaus:

This is in response to your letter (SP-97-024), dated April 1, 1997, requesting comments on a legislative change being considered to Section 274c.(4) of the Atomic Energy Act of 1954. The intended change will remove the current requirement that the United States Nuclear Regulatory Commission (NRC) must determine whether a uranium licensee (whose activities result in production of mill tailings) has complied with all applicable standards and requirements under the license. Current law requires such a determination to be made by the NRC regardless of whether an Agreement State with jurisdiction for these activities has made a similar prior determination.

As an Agreement State with jurisdiction for licensing uranium recovery and processing activities that result in production of uranium mill tailings or by-product material defined by Section 11e.2 of the Atomic Energy Act of 1954, we have had experience in regulating the operations as well as closure of licensed uranium recovery facilities. We believe that the current requirement of Section 274c.(4) is indeed duplicative of the effort that the State has already expended to assure that all standards and requirements under the license are met at the time of license termination.

Specifically, we answer your questions below:

1. *Does your State routinely carry out a final "termination review" in these circumstances to verify that the licensee has complied with all applicable State standards and requirements?*

Yes. Final termination review by the regulatory agency is required by State rules (30 TAC §336, TRCR Part 43.60(i)).

2. *If the State does carry out a termination review, what is the scope of that review?*

There are four major steps involved in the State's license termination review: (i) the licensee submits complete record of the decommissioning, decontamination, and reclamation activities conducted, along with results of field gamma surveys made and

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Mr. Paul H. Lohaus, Deputy Director

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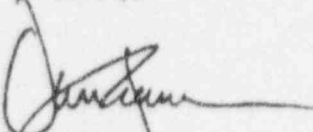
environmental samples collected; (ii) the agency staff makes a thorough review of the submitted material in conjunction with a detailed review of the license and rule requirements, inspection reports, and compliance record; (iii) the agency plans and conducts a verifactory survey at the licensed site, including field gamma survey and sampling at selected spots where field measurements indicate potential contamination; and (iv) the agency staff develops a final recommendation for termination or for further decontamination based on all the preceding steps.

3. *Would you have any objection to the legislative amendment described above?*

No. We support such an amendment as it eliminates a duplicative effort on the part of NRC. The NRC will still be able to verify the correctness of a State's actions pertaining to terminated State licenses during the periodic state radiation control program review. Furthermore, for conventional mill tailings disposal sites, the NRC will have to continue to concur with termination as part of granting the general license to the custodial agency (either the US Department of Energy or the State). For in situ uranium recovery facilities, complete decontamination must be achieved, and hence termination decisions should be straight forward.

We thank you for the opportunity to comment on the letter. If you have any questions, please call Ms. Alice Rogers at (512) 239-6846. Correspondence can be mailed to her at mail code MC131.

Sincerely,



Dan Pearson  
Executive Director

DP/CDR/jb

cc: Mr. Richard A. Ratliff, Texas Department of Health, Bureau of Radiation Control  
Ms. Alice Hamilton Rogers, TNRCC, UURW

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