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TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

June 19, 1998

Mr. Richard L. Bangart, Director
Office of State Programs
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Bangart:

This is in response to your letter (SP-98-005), dated January 25, 1998, requesting Agreement State comments on a draft revision to Part IV of the Integrated Materials Evaluation Program (IMPEP) Management Directive and Handbook 5.6, which incorporates the guidance in decision making for the Management Review Board (MRB).

As you know, the State of Texas radiation control program review was conducted by Nuclear Regulatory Commission (NRC) IMPEP teams in June 1997. The final IMPEP report covering the review has recently been issued by the NRC, with a cover letter dated January 26, 1998, from Mr. Hugh L. Thompson, Jr., Deputy Executive Director for Regulatory Programs. During the 1997 program review the staff of the Texas Natural Resource Conservation Commission (TNRCC) had occasion to get familiar with the MRB decision making process.

We have the following comments on the draft revisions to the guidance submitted with SP-98-005. Our comments ensue from our participation in the MRB decision making process as part of Texas program review. We sincerely hope that you will consider these in making revisions to the guidance.

1. Constitution of the MRB: While we like the inclusion of a member of the Organization of Agreement States (OAS) on the MRB to represent the Agreement State viewpoints, we strongly recommend that the OAS member should have voting privileges. Having a State voting member does not undermine the decision making ability of the MRB. On the other hand, it provides an opportunity to document the State's perspective in any final decision making and assures that the comments offered by the State's representative have been appropriately considered.
2. Guidance for conducting MRB executive session meetings and decision making: We recommend inclusion of specific guidance regarding decision making by the MRB in an executive session and its documentation. We think that an open decision making process is important and in accord with standard NRC policy. Alternatively, if such guidance cannot be provided, we strongly recommend avoidance of executive sessions altogether.

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Mr. Richard L. Bangart, Director

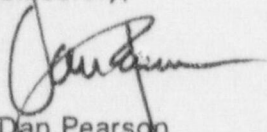
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3. Honoring of statements of acquiescence made by MRB members in the open forum: The guidance should include a specific protocol for considering and honoring statements of acquiescence made by MRB members in the open forum. For example, during consideration of the Texas IMPEP review, one MRB member conceded that creating a computerized training database for less than 50 staff members was not necessary. But the recommendation in the final MRB report reiterated the earlier standard requirement that the TNRCC must computerize training records of the meager 13 members of its radiation control program staff. If a specific vote of MRB members is required, the guidance should state so and the MRB chairman should assure that each decision item is called for a vote.

We thank you for the opportunity to comment on the draft document. If you have any questions, please call Ms. Alice Rogers at (512) 239-6846, or contact her by e-mail: arogers@tnrcc.state.tx.us. Correspondence can be mailed to the letterhead address, and include 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, URW

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