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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 30, 2015

Laura Dudes, Director
Division of Material Safety, State, Tribal, and Rulemaking Programs
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Rockville, Maryland 20852

Re: Authority and Jurisdiction re Greater Than Class C (GTCC) type waste streams

Dear Ms. Dudes:

On September 10, 2014, the Texas Commission on Environmental Quality (TCEQ) considered a petition by Waste Control Specialists LLC (WCS) requesting a change to TCEQ rules to remove prohibitions against disposal of Greater than Class C (GTCC) Waste, GTCC-Like Waste, and Transuranic (TRU) Waste at its TCEQ licensed facilities. Current Texas law as well as federal law does not establish a clear regulatory pathway for disposal of GTCC types of waste streams. The TCEQ Commissioners requested staff initiate stakeholder discussions regarding potential amendments to Texas rules related to disposal of the GTCC waste streams, including definitions associated with those waste streams in a manner that is consistent with applicable federal and state law.

In order to ensure an informed stakeholder process, it is critical to have accurate information from our federal counterparts regarding Agreement State matters and compatibility. Related to WCS' petition efforts, WCS has provided to TCEQ detailed examples (see attached letter from WCS) for disposal of potential types of GTCC waste streams should Texas rules be changed and a license amendment be approved. We respectfully request that Nuclear Regulatory Commission (NRC) respond specifically regarding these discrete examples.

In addition, in phone conversations and meetings that occurred September 2014 – January 2015, NRC staff requested that TCEQ submit, in writing, questions regarding Texas' authority to license the disposal of GTCC waste streams. These questions are:

- Does Texas' role as an Agreement State per federal statutes and NRC rules in 10 Code of Federal Regulations §61.55 and section 274b of the 1954 Atomic Energy Act authorize promulgation of state rules (30 Texas Administrative Code §§ 336.362(a)(2)(D), 336.362(Appendix E) and 336.701(b)) that could license GTCC waste streams for disposal?
- Considering the fact that the Department of Energy (DOE) currently holds or is required to take possession of all GTCC and GTCC-like material, and considering that some of that material exhibits TRU characteristics and may currently be commingled to include GTCC, GTCC-like, and material exhibiting TRU characteristics, could the State of Texas authorize the disposal of these materials? If not, is there some pathway to allow for disposal?

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It is important to note that TCEQ will not consider authorizing disposal of any of these waste streams until any necessary regulatory or statutory changes are made and an appropriate application to amend the current disposal license is made by WCS and approved by TCEQ. It is also important to note that this inquiry does not relate to the TRU waste currently stored at WCS and designated for final disposal at the Waste Isolation Pilot Plant in Carlsbad, New Mexico. Before we can consider any application for disposal of these waste streams we need to be able to explain jurisdictional boundaries to stakeholders. We look forward to your response and are available to discuss any additional questions. You can contact me at 512-239-5308.

Sincerely,



Charles W. Maguire, Division Director
Radioactive Materials Division
Office of Waste
Texas Commission on Environmental Quality

Enclosures (2)

cc: Larry Camper, NRC
Rod Baltzer, WCS