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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 7, 2017

May Ma, Office of Administration
Mail Stop: OWFN-2-A13
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: TCEQ Comments on Publication of the Final Draft Revision of Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material under 10 CFR 20.2002 and 10 CFR 40.13(a)

Docket ID NRC-2017-0198

Dear Ms. Ma:

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to respond to the Nuclear Regulatory Commission's (NRC) announcement of a public comment period for the Publication of the Final Draft Revision of Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material under 10 CFR 20.2002 and 10 CFR 40.13(a).

TCEQ comments were prepared in response to review of the final draft revision relating to disposal and transfers of radioactive material under 10 CFR Parts 20 and 40. The TCEQ comments are contained herein and address several items within the proposed guidance that may result in inconsistencies with Texas regulations.

If there are any questions concerning the TCEQ's comments, please contact Mr. Charles Maguire, Division Director, Office of Waste at 512-239-5308 or Charles.Maguire@tceq.texas.gov. We look forward to working with NRC throughout this process.

Sincerely,

A handwritten signature in black ink, appearing to read "R. A. Hyde".

Richard A. Hyde, P.E.
Executive Director

Enclosure

SUNSI Review Complete
Template = ADM - 013
E-RIDS = ADM-03
Add = Robert G. Kidney (RKG)

**Texas Commission on Environmental Quality Comments on Publication of the Final
Draft Revision of Guidance for the Reviews of Proposed Disposal Procedures and
Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a)**

(STC-17-073)

1. **Section 7.2.2, §40.13(a) Requests:** describes how material exempted under this rule does not require Nuclear Regulatory Commission's (NRC) prior written approval. Texas is required to have this rule in its regulations as part of its compatibility requirements. The Texas Commission on Environmental Quality (TCEQ) applies this rule in the same manner as the NRC. This section of the guidance then states "However, for some limited types and quantities of materials that fall under the exemption for unimportant quantities of source material in § 40.13(a), transfers under § 40.51(b)(3) could potentially result in scenarios where public dose limits in 10 CFR Part 20 could be exceeded. Therefore, licensees and applicants should request NRC review and approval of such transfers..."

Comment: Additional explanation is needed regarding these "limited types and quantities of materials." How is the licensee or waste generator supposed to know when this additional review and approval is required? Furthermore, there is no rule which requires a waste generator to determine if exempt unimportant quantities of source material exceed the public dose limits in 10 CFR Part 20. This should be clarified or expanded on in the guidance.

2. **Section 9.0, Final Documentation:** states, "If the requester is an NRC licensee and the unlicensed facility is located in an Agreement State, then the NRC would approve the disposal request and the Agreement State would issue an exemption to the unlicensed facility."

Comment: This should be modified to clarify that only states that have the equivalent of 10 CFR 20.2002 in their state rules can issue this exemption. Texas does not have the equivalent of 10 CFR 20.2002 in its rules and thus has no legal or regulatory authority to exempt an alternative disposal request for disposal at an unlicensed facility that was approved by the NRC under 10 CFR 20.2002.