

NOV 8 1996

Ms. Cynthia C. Cardwell, Deputy Director
Division of Licensing, Standards, and Registration
Texas Department of Health
1100 West 49th Street
Austin, TX 78756-3189

Dear Ms. Cardwell;

We have reviewed the proposed revisions to the Texas Transportation rules dated August 27, 1996, which were received on September 10, 1996. The proposed rules were reviewed by comparison to the equivalent NRC regulations in 10 CFR Parts 20 and 71. Thomas J. O'Brien telephonically notified Ms. Monica Gonzales of our comments (as enclosed) on October 8, 1996.

Under our current procedure, a finding that a rule meets the compatibility requirements may only be made based on a review of the final text of the rule. However, we have determined that if the proposed rules were adopted incorporating the enclosed comments, and without other significant change, they would be compatible. Failure to adopt three of our four comments would result in a finding that the rule is incompatible.

We request that when the proposed rules are adopted and published as final rules, a copy of the "as published" rules be provided to us for review. As requested in our All Agreement States Letter SP-96-027, "Request to Highlight Changes to Agreement State Regulations Submitted to NRC for Compatibility Review" (March 1, 1996), please highlight the final changes and send one copy in a computer readable format, if possible.

If you have any questions regarding the comments or any of the NRC rules used in the review, please contact me or Mr. Thomas O'Brien of my staff at (301) 415-2308.

Sincerely,
Original Signed By:
PAUL H. LOHAUS
Paul H. Lohaus, Deputy Director
Office of State Programs

Enclosure:
As stated

Distribution:
DIR RF (6S220)
RLBangart
PLohaus
SDroggitis
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DCD (SP08)
PDR (YES ☒ NO ☐)

*See previous concurrence.

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Office of State Programs

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| NAME | TJO'Brien:maj/gd | PHLohaus | FXCameron | RLBangart |
| DATE | 10/16/96* | 10/17/96* | 10/29/96* | 11/8/96 |

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| DATE | 10/16/96 | 10/17/96 | 10/19/96 | 10/ /96 |

OSP FILE CODE: SP-AQ 27



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

November 8, 1996

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Texas Department of Health
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Sincerely,

A handwritten signature in dark ink, appearing to read "Paul H. Lohnaus", is written over the typed name.

Paul H. Lohnaus, Deputy Director
Office of State Programs

Enclosure:
As stated

COMMENTS ON PROPOSED TRANSPORTATION REGULATIONS

| <u>Section</u> | <u>Comments</u> |
|-------------------|---|
| 289.201(b)(97) | NRC no longer uses "transport groups" in our regulations and has no definition for "special form". However, "special form radioactive material" is defined in your section 289.257(b)(30) and is compatible with that in 10 CFR 71.4. Although not required for compatibility with NRC regulations, we strongly recommend that you delete the additional obsolete "special form" definition to avoid confusion and consider deleting the term "transport groups." |
| 289.257 | This section is not compatible as it does not include the requirements for nuclear waste shipments as specified in 10 CFR 71.97 (a Division 2 item of compatibility). |
| 289.257(d)(23)(B) | This definition is not essentially identical to the NRC definition for a Type B package in 10 CFR 71.4 (a Division 1 item of compatibility) and therefore is not compatible. |
| 289.257(k)(1) | This section does not include the Type B package requirement specified in 10 CFR 71.91(a)(7) (a Division 2 item of compatibility) which would need to be added to be compatible. |

(FYI) RLBz
PAL
SCD

EXECUTIVE TASK MANAGEMENT SYSTEM

<<< PRINT SCREEN UPDATE FORM >>>

TASK # - 6S220

DATE- 08/28/96

MAIL CTRL. - 1996

TASK STARTED - 08/28/96

TASK DUE - ~~10/09/96~~ 10/25/96

TASK COMPLETED - / /

TASK DESCRIPTION - TEXAS TRANSPORTATION DRAFT RULES FOR COMMENT
(8/26/96 E-MAIL TO P. LOHAUS FROM M. GONZALEZ)

REQUESTING OFF. - TX

REQUESTER - M. GONZALEZ

WITS -

0 FYP - N

PROG.- TJO

PERSON -

STAFF LEAD - TJO

PROG. AREA -

PROJECT STATUS -

TX DUE DATE: 10/11/96

PLANNED ACC. - N 8/28/96 P. LARKINS E-MAILED MS. GONZALEZ TO PROVIDE
LEVEL CODE - 1 OSP A COPY OF THE DRAFT RULES

Rec'd 10-Sep-96
TAS