



Texas Compact Commission <administration@tllrwdcc.org>

Comment on the proposed TLLRWDC rules

3 messages

Hageman, John P. <john.hageman@swri.org>

Tue, Jun 16, 2015 at 5:01 PM

To: "administration@tllrwdcc.org" <administration@tllrwdcc.org>

The proposed TLLRWDC rules regarding out-of-state waste are based on the Texas Law:

Sec. 401.207. OUT-OF-STATE WASTE; NONPARTY COMPACT WASTE. (a) The compact waste disposal facility license holder may not accept low-level radioactive waste generated in another state for disposal under a license issued by the commission unless the waste is:

- (1) accepted under a compact to which the state is a contracting party;
- (2) federal facility waste that the license holder is licensed to dispose of under Section 401.216; or
- (3) generated from manufactured sources or devices originating in this state.

The need to clarify when and where radioactive waste was "generated" is key to understanding what radioactive material currently in Texas was or was not "generated" in Texas. The law needs to be analyzed in its full context to help understand the concept of what "waste" was "generated in another state."

If radioactive material was sent to Texas, as potentially useful radioactive material, it was not "waste;" but was simply radioactive material sent from another state. Thus this radioactive material cannot be "waste generated in another state." Again, it was radioactive material, not waste, sent to Texas from another state.

After the radioactive material has been possessed in the State of Texas and the person possessing the radioactive material decides that the potentially useful radioactive material is no longer useful, due to decay, shifts in the market for purchase of such radioactive material, or the expiration of a certification of the radioactive material, the Texas Licensee can initially declare the radioactive material to now be radioactive waste.

If the radioactive material was not "waste" when it came into Texas and the radioactive material was only declared to be waste after being in Texas for some time and is so decided to be waste by a Texas Licensee, it seems that the waste was "generated" (so declared or identified) in Texas and is not "waste generated in another state."

My personal comments:

John P. Hageman, MS, CHP

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(become)" waste. Conversion of useful radioactive material into "waste" is the decision of the owner of the material, who decides that the material is no longer useful, for whatever reasons. Thus, the useful material is caused to be waste by the decision of the material's owner. Another way to say this is that the owner "brought into existence" or "generated" waste while the material was in Texas. Thus, it can logically be argued, perhaps even from a legal perspective, that the "waste" was "generated" within the State of Texas.

Clearly the burden of proof that the material was "useful" material, when it arrived in Texas, is the responsibility of the owner that generated the waste.

Again, my personal comments:

John P. Hageman, MS, CHP

Cell phone: 210-260-7210

From: Hageman, John P.
Sent: Tuesday, June 16, 2015 5:01 PM
To: 'administration@tllrwdcc.org'
Subject: Comment on the proposed TLLRWDC rules

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Texas Compact Commission <administration@tllrwdcc.org>
To: "Hageman, John P." <john.hageman@swri.org>

Mon, Jun 22, 2015 at 3:19 PM

Thank you very much for your comments.

I look forward to seeing you soon at TRAB.

Audrey

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Administration
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