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Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 19, 2019

Secretary, U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attention: Rulemakings and Adjudications Staff  
Re: Docket ID NRC-2017-0081-0014/NRC-2017-0081-0027

Dear Sir or Madam:

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission's (NRC) Draft Regulatory Basis for Disposal of Greater-than-Class C (GTCC) and Transuranic Waste. TCEQ previously advised NRC staff that comments would be submitted.

Enclosed please find the TCEQ's detailed comments relating to the NRC's draft regulatory basis referenced above. If you have any questions concerning the enclosed comments, please contact Mr. Brad Broussard of the Radioactive Materials Division, at (512) 239-6380, or at [brad.broussard@tceq.texas.gov](mailto:brad.broussard@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "T. Baker".

Toby Baker  
Executive Director

Enclosure

**Texas Commission on Environmental Quality (TCEQ) Comments on the U.S. Nuclear Regulatory Commission's (NRC) Draft Regulatory Basis for Disposal of Greater-than-Class C (GTCC) and Transuranic Waste**  
**Docket ID NRC-2017-0081-0014/NRC-2017-0081-0027**

**Background:** On July 22, 2019, the U.S. Nuclear Regulatory Commission (NRC) published in the *Federal Register* a draft regulatory basis to evaluate the disposal of Greater-Than-Class C (GTCC) waste through means other than a deep geologic disposal, including near surface disposal of certain types of GTCC waste. Currently, there is no land disposal facility licensed to accept GTCC waste for disposal. The draft regulatory basis analyzes GTCC waste streams to determine if they are potentially suitable for near surface disposal and identifies three alternatives that could address GTCC regulatory concerns: The three alternatives identified by the NRC in the draft regulatory basis are: (1) No Regulatory Change, (2) Develop New Guidance, or (3) Conduct Rulemaking. The notice also seeks comments on eight questions regarding NRC's technical and regulatory evaluation of the disposal GTCC waste.

**The TCEQ offers the following comments:**

1. Whether the NRC proceeds with developing guidance or proposes rulemaking, either option would give the TCEQ and the regulated community the opportunity to participate and comment. Moreover, under either option, Texas would want to ensure that as an Agreement State, Texas would reserve the right to regulate disposal of GTCC waste in a facility licensed in the state.
2. For the no action alternative, it is unclear how the NRC's licensing process would affect an Agreement State when the prospective applicant is already an Agreement State licensee.
  - a. If an Agreement State licensee applied directly to the NRC and the application was approved, where in that process would an Agreement State have the opportunity to agree or not agree to accept GTCC waste in a near-surface disposal facility licensed by the Agreement State?
  - b. In Table 7-2, the cost to Agreement States is only incurred from the license hearing and public meetings. This seems to imply that the Agreement State would not be involved in the review process. Please clarify if the Agreement State would have any other coordination with the NRC.
3. The TCEQ supports the methodology in the draft regulatory basis in which each specific waste stream is analyzed separately (instead of a generic GTCC waste) for potential suitability of disposal in a generic near-surface disposal facility. The NRC methodology allows for a site-specific analysis to determine ultimately whether a specific GTCC waste stream is suitable for disposal in a near-surface disposal facility.

**Federal Register Notice Questions:**

1. Are there any characteristics of GTCC waste not identified in the draft regulatory basis that should be considered when evaluating the near surface disposal of GTCC?

**TCEQ has no comments.**

2. In addition to the potential regulatory changes identified in this notice, should the NRC consider other potential changes or additions to the existing technical requirements for low-level radioactive waste disposal in evaluating GTCC waste disposal?

**Irrespective of the jurisdictional regulatory oversight, the NRC will need to update the Uniform Low-Level Radioactive Waste Manifest to reflect certain information related to waste shipments of GTCC.**

3. Are there any additional issues that should be addressed to enhance public or occupational safety regarding the disposal of GTCC waste, either by rulemaking or through the development of guidance documents, that were not addressed in the draft regulatory basis?

**TCEQ has no comments.**

4. Are there any issues that should be addressed to establish a relatively uniform set of requirements for GTCC waste disposal in Agreement States and in non-Agreement States that were not addressed in the draft regulatory basis?

**TCEQ has no comments.**

5. Are there any other changes to the NRC's regulations that are not addressed in the draft regulatory basis that should be considered to facilitate the disposal of GTCC waste and better align the requirements with current health and safety standards?

**If the rulemaking option is chosen, it would be helpful to the Agreement States that any potential rulemaking for GTCC occur at the same time as 10 CFR Part 61 changes in order to allow the Agreement States to perform a single rulemaking instead of two.**

6. Are there other alternatives that are more cost effective, while adhering to the requirements of 10 CFR part 61, that the NRC should consider for implementing requirements for GTCC waste disposal in the near surface that were not addressed in Section 7 of the draft regulatory basis?

**TCEQ has no comments.**

7. Are there any additional advantages or disadvantages or applicable cost information that the NRC should have considered as part of its evaluation of alternatives in Section 7 of the draft regulatory basis that are pertinent to the NRC or any stakeholders including the public, industry, Agreement States, Indian Tribes, the U.S. Department of Energy, or other government agencies?

**TCEQ has no comments.**

8. Are there any other issues, not identified in the above questions, that the NRC should have considered in the draft regulatory basis?

**TCEQ has no comments.**