



## Texas Radiation Advisory Board

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*This letter was sent to the Governor, Lt. Governor, Speaker of the House, Senator Fraser, Representative Hilderbran, and members of the Texas Delegation in the United States Congress*

Would you be concerned if the only source of drinking water for the Texas communities you represent was determined unusable due to a *theory unsupported by science*? Would you further be concerned if it was shown that a federal agency's proposed fix for the *theoretical hazard* in the drinking water actually created *more* problems than it solved? If you would be concerned by either situation, please understand that both exist today, and the need for your action on the subject matter is urgent due to a very narrow window of opportunity closing 28 February 2003.

At one point in our history, the United States undertook the creation of laws to protect its citizens and environment from harm due to tangible, measurable hazards. The costs were acceptable and the benefits were measurable. We have now progressed to a point in rulemaking where the costs are at times inordinate and the benefits unmeasurable, non-existent, or *negative*.

Such is the case with the Environmental Protection Agency's (EPA) Federal Radionuclide Rule.

On 7 December 2000, the EPA promulgated the Radionuclide Rule, under the federal Safe Drinking Water Act (SDWA), 42 U.S.C. Sections 300f-j mandate that the states revise their approved primacy programs in accordance with the revised national drinking water standards as they relate to uranium, radium, and maximum contaminant levels (MCLs) for beta-/photon-emitting radionuclides.

The Texas Radiation Advisory Board (TRAB) in its 6 April 2002 meeting recommended against Texas proposing and adopting such rules. In short, TRAB believes that: (1) the revised EPA rules are unwarranted and unsupported by public health information (specifically epidemiological data); (2) the results of unvalidated mathematical models are used to support the diversion of public and private monies toward compliance with the rules; and (3) the rules unnecessarily create a category of radioactive waste for which there is currently no approved method of disposal.

The consequences to Texas are significant and are detailed in our 6 May 2002 letter (attached) to the then TNRCC (now TCEQ). Over 130 community water systems (CWSs) will be adversely affected by this rule. Of particular note is that the small rural CWSs most affected by these proposed rules could be financially devastated by the liability and cost of safely handling and disposing of the radioactive materials created by these rules. In many cases, these small rural systems that are unable to meet the new limits are the sole source of suitable pathogen-free water for rural Texans.

The main thrust of the TRAB letter to the TNRCC bears reemphasizing: The TRAB cannot and will not support the diversion of public and private monies to fund EPA's mathematical exercises that have *no basis* in fact – especially when such limited monies are needed for physical security and pathogen-reduction improvements. *Texas decision-makers should vigorously oppose this rule.*

You currently have the opportunity to do so. We understand that the White House Office of Management and Budget (OMB) recently referred the rule to EPA for further evaluation. (Reference OMB's 2002 Report to Congress on the Costs and Benefits of regulations and Unfunded Mandates on State, Local, and Tribal Entities.) Under the OMB process, EPA must complete its initial review of the rule, and discuss its findings with the White House Office of Information and Regulatory Policy (OIRA), by 28 February 2003. However, the final decision on whether to reform the rule will be determined by EPA. Also, for your information, the Radionuclide rule is currently being challenged in the D.C. Circuit Court of Appeals (No. 0 1 - 1 028 and consolidated cases, City of Waukesha, et al v. EPA). A decision is expected in the coming months.

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Although the time-frame is very short, collectively Texas decision-makers have the ability to bring a great deal of influence to bear on a federal agency, especially when pressing an agency to justify the promulgation of a rule that brings enormous cost to taxpayers with no hope of ever measuring any benefit.

If you have any questions regarding the TRAB position on this EPA rule, please feel free to contact me at your earliest convenience at 806-477-5727. We are hopeful that you will take advantage of this opportunity to act in the interest of all Texans and demand that sound science – not unproven theories – be at the root of our federal drinking water rules.

Very Respectfully,  
Original signed by:

Michael S. Ford  
Chair

Attachment

