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NRC WITHDRAWS BELOW REGULATORY CONCERN
POLICY STATEMENTS

The Nuclear Regulatory Commission is formally withdrawing its policy statements on radioactive materials that are "below regulatory concern." The action complies with provisions of the Energy Policy Act of 1992--which revoked the Commission's 1986 and 1990 BRC policy statements--and follows the Commission's 1991 indefinite moratorium on use of the statements.

The 1990 statement--issued on July 3--dealt with when levels of radioactivity of nuclear materials are so low that they do not warrant the same regulatory controls to ensure proper protection of the public health and safety and the environment as do materials with higher levels of radioactivity.

The related policy statement on radioactive waste below regulatory concern--issued on August 29, 1986--described the kind of information petitioners should file to allow timely Commission review of petitions for rulemaking to exempt specific radioactive waste streams from disposal in a licensed low-level waste disposal facility.

The Commission is also terminating a rulemaking action initiated to implement the 1986 policy statement: an advance notice of proposed rulemaking on "Radioactive Waste Below Regulatory Concern; Generic Rulemaking" published on December 2, 1986.

The Low-Level Radioactive Waste Policy Amendments Act of 1985 directed the Commission to develop criteria and procedures for acting on petitions "to exempt specific radioactive waste streams from regulation...due to the presence of radio-nuclides...in sufficiently low concentrations or quantities as to be below regulatory concern." The Commission's 1986 BRC policy statement responded to this direction by setting criteria for evaluating such petitions.

Later the Commission issued the 1990 BRC policy statement to establish a consistent risk framework for making regulatory

exemption decisions across the broad spectrum of activities regulated by the agency.

In reaction to public concern about the 1990 policy, the Commission in February 1991 announced the initiation of a consensus-building process to clarify differences and work toward resolution of issues related to implementation of the policy with regard to waste disposal. The agency further announced that, during the consensus-building process, the NRC would defer action on petitions for rulemaking involving requests for BRC waste disposal exemptions.

In July 1991, the Commission placed a complete moratorium on implementation of the 1990 BRC policy statement and embarked on a phased consensus-building process to seek the advice of affected interests on a re-evaluation of the policy.

When the consensus-building process was terminated in December 1991, due to the difficulty of obtaining the participation of all affected interests in the process, the Commission indefinitely extended the moratorium on the implementation of the policy.

Later the Energy Policy Act of 1992 revoked the 1986 and 1990 BRC policy statements.

The Energy Policy Act did not, however, revoke the Commission's authority under the Atomic Energy Act to exempt classes of radioactive materials from licensing. The Commission will therefore continue to address individual exemption requests using criteria and guidance in existence prior to the 1990 policy statement. It will also continue to use existing general procedures for the processing of petitions for rulemaking to handle exemption requests.

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