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**To:** "SECY@NRC.GOV" <SECY@NRC.GOV>  
**Date:** Tue, Jun 17, 2003 2:05 PM  
**Subject:** Comments on Disposition of Solid Materials

June 17, 2003 (2:49PM)

**OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF**

Attached are technical comments resulting from Debra's attendance at a recent workshop. Please add these comments to our previous comments on the subject.

We apologize for not using the rulemaking Web Site (for state comments). Apparently we do not have the "right" password or ID for this particular forum. Please have someone advise us on the correct procedure. Thanks.

**215**

<<Comments 6-17-03.doc>>

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"The Department of Health works to protect and improve the health of people in Washington State"

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This message from Terry C. Frazee  
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Quick ways to reach me:

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Also, visit our Home Page at  
<http://www.doh.wa.gov/ehp/rp>

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SECY-02

To: Secretary  
US Nuclear Regulatory Commission  
Washington, DC 20555  
Attention: Rulemaking and Adjudications Staff

We are responding to the NRC's request for comments on the scope of the proposed rulemaking on alternatives for controlling disposition of solid materials, dated February 28, 2003. We originally commented on this issue in our letter dated December 13, 1999. After attending the public workshop on May 21-22, 2003 in Rockville, Maryland, we have additional comments on one issue.

To help clarify our comments we will describe our current regulatory setting. Washington has incorporated the Schedule D table from Regulatory Guide 1.86 directly into our state regulations. This table, along with approvals on a case-by-case basis, has served us well. We do, however, appreciate the concept of a dose-based rule covering more situations including volumetric contamination. As stated previously, "We believe that "unrestricted" release of materials may be warranted if an appropriate and justifiable limit is used."

Originally we were "strongly opposed to a "restricted" category of free release", believing that radioactive material "needs to be controlled or not controlled (free release)." We have modified that stance slightly. We still do not like the idea of conditional use and believe the standard should be for unrestricted release only. However, we recognize the need for flexibility to authorize conditional use, if the state so chooses, on a case-by-case basis. To facilitate this, we recommend the final rule be written to "not exclude" conditional use. The rule should not define conditional uses in detail (specific types), but should require a thorough review and approval process, including an EIS if the state deems necessary. However, States should not be "required" (by the level of compatibility) to approve conditional use.

We also believe recycling should be excluded, as a conditional use, at least for material that goes to scrap/steel businesses or into consumer products. Recycling into an already-licensed facility may be an appropriate conditional use that could be authorized using the above review and approval process. However, since this can already occur as a transfer from one licensee to another it may not need to be addressed by this rule.

Thank you for the opportunity to comment on this important issue. We are looking forward to being involved in the next steps.

Sincerely,

Debra McBaugh, Supervisor  
360-236-3251

Terry Frazee, Regional Director  
360-236-3213

Division of Radiation Protection, Washington State Department of Health