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July 1, 2003 (5:00PM)

Secretary, U.S. Nuclear Regulatory
Commission, Washington, DC 20555.
Attention: Rulemaking and Adjudications Staff
Re: Rulemaking on Controlling the Disposition of Solid Materials
Re: February 28, 2003 (Volume 68, Number 40) 9595-9602

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

It is interesting that, as the nation's under-inspected nuclear facilities may be corroding quietly towards catastrophe, the NRC again identifies as a critical need deregulation to ensure that radioactive trash can't be profitably removed from the regulatory regime by "recycling" it into "products" that can be sent to ordinary landfills.

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A casual observer, like myself, does have some difficulty imagining the wonderful new uses that can be found for contaminated "furniture and ventilation ducts in buildings; metal equipment and pipes; wood, paper, and glass; laboratory materials (gloves, beakers, etc); routine trash; site fences; concrete; soil; or other similar materials," although the quantity of such (nonradioactively contaminated) objects finding a way into existing landfills suggests that the world might welcome such beneficial uses. Since, however, it seems unlikely that this remanufacture of contaminated objects will occur entirely within restricted and impacted areas, the proposal actually seems to involve "temporary" release of the materials, with the attendant likelihood that licensees (knowing how little NRC regulation actually entails) are likely simply to "lose" many of these objects from their inventories. There is the further danger that the handling and retooling of such materials will release excess particulate material which will contribute to internal doses.

Dose based regulation is at present inappropriate because internal dose has never been properly accounted for [see Chapter 9 of 2003 Recommendations of the European Committee on Radiation Risk, especially the issues raised in Section 9.8]. A particular problem with the proposed 1 mrem/yr standard is that the NRC, without any limit on sources, appears to contemplate multiple releases that will cause such exposures, so that this "limit" is (in fact) not a limit at all. Moreover, appropriate cost/benefit analysis should be founded on population doses, which the NRC continues to ignore. The LLW landfill option (and not the EPA landfill option) should be followed. Otherwise, despite claims to the contrary, materials bearing significant radioactive contamination are likely to slip through the rather loose mesh of regulation into general circulation.

With regard to the specific questions:

(a) Can a scrap/manufacturing/distribution process that is not licensed by NRC provide assurance that the material is limited to its authorized use? **THIS SEEMS VERY UNLIKELY. A CREDIBLE AFFIRMATIVE ANSWER WOULD REQUIRE A SUBSTANTIAL EVIDENTIARY PROOF, RATHER THAN MERE ASSERTION.**

(b) Would it be necessary for NRC to maintain regulatory control by licensing all or some portion of the process (e.g., only the scrap process or the scrap and manufacturing process)? **THE NRC, WHETHER OR NOT IT DECLARES THAT IT REGULATES, WOULD BE DEREGULATING DE FACTO.** Could involvement by another Federal Agency in the scrap/manufacturing/ distribution process provide assurance that the

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material remains with its authorized use? THIS SEEMS VERY UNLIKELY. A CREDIBLE AFFIRMATIVE ANSWER WOULD REQUIRE A SUBSTANTIAL EVIDENTIARY PROOF, RATHER THAN MERE ASSERTION.

(d) What end use products could be manufactured under such a conditional use, e.g., bridge girders, sewer pipes, industrial coils? I CANNOT IMAGINE HOW THESE PRODUCTS CAN BE MADE FROM *“furniture and ventilation ducts in buildings; metal equipment and pipes; wood, paper, and glass; laboratory materials (gloves, beakers, etc); routine trash; site fences; concrete; soil; or other similar materials.”*

(2) What criterion of acceptability should be used before allowing release of solid material to a conditional use (e.g., should dose-based or concentration-based criterion be used and what should it be?) THE MATERIAL SHOULD BE NO MORE RADIOACTIVE THAN ORDINARY (RADIOACTIVE SOURCE-FREE) OBJECTS IN COMMON COMMERCE.

(a) Would placing the material in a RCRA Subtitle C site accomplish the goal of isolating the material from the public? THIS SEEMS VERY UNLIKELY. A CREDIBLE AFFIRMATIVE ANSWER WOULD REQUIRE A SUBSTANTIAL EVIDENTIARY PROOF, RATHER THAN MERE ASSERTION.

(b) Would placing the material in a RCRA Subtitle D landfill accomplish the goal of isolating the material from the public? THIS SEEMS VERY UNLIKELY. A CREDIBLE AFFIRMATIVE ANSWER WOULD REQUIRE A SUBSTANTIAL EVIDENTIARY PROOF, RATHER THAN MERE ASSERTION.

(c) What criteria of acceptability should be used before allowing disposal of solid material at a landfill such that the public and landfill workers are protected? In particular, should a different regulatory scheme be used depending on the radioactivity level of the material potentially to be placed in the landfill facility, i.e. lesser requirements if the potential dose is lower? GET THE INTERNAL DOSE RIGHT BEFORE CONTEMPLATING SUCH REGULATION.

(d) Is it necessary for NRC to maintain regulatory control to achieve the desired isolation of NRC regulated material from the public? YES. IF THE NRC DOES NOT MAINTAIN REGULATORY CONTROL, THE “NRC REGULATED MATERIAL” WILL NOT BE REGULATED.

Carl Rupert
952 Clarion Drive
Durham NC 27705
30 June 2001