

June 23, 2003

Secretary  
Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

DOCKETED  
USNRC

July 1, 2003 (11:31AM)

Re: Release of Solid Materials  
Comments on Rulemaking Workshop

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

To NRC Committee on Rulemaking:

I respectfully submit to NRC the following comments pertaining to the workshop for the rulemaking on the release of solid materials. I attended the workshop in Rockville, Md. on May 21 and 22, and was disappointed with the meeting. I trust my comments and suggestions will be received as constructive criticism, identifying problems encountered and providing recommendations concerning how to prevent or minimize such problems in the future.

Discussion Topics

I expected, based on previous communication with NRC personnel, that the rulemaking process and the substance of the alternatives under consideration would be the focus of the meeting. Such was my understanding even at the beginning of the meeting, when the agenda was reviewed by Mr. Cameron during his introductory remarks. NRC began the workshop with a brief review of the rulemaking process, the background of NRC regulation of material release, and the current status. However, several important facets of this overview were left out:

1. There was no mention of NRC's already-substantial commitment to a 1 mRem/yr dose limit, although several NRC representatives have expressed in other meetings that this limit is essentially "carved in stone". I work for a company with several licensed facilities, and understand that industry believes there is no point in commenting on the 1 mRem/yr limit, because that is no longer negotiable to NRC. If NRC is committed to the 1 mRem/yr limit, this should have been stated. Such a statement would have saved a lot of time which seems to have been poorly spent. On the other hand, if that limit is truly negotiable, NRC should not have invested so much time and money in developing so much regulatory guidance based on a 1 mRem/yr limit.
2. There was no mention of the development and publication of draft NUREG-1640, which translates the 1 mRem/yr dose limit into both surficial and volumetric contamination limits for many nuclides, based on various end-use (exposure) scenarios. Whether or not NRC is committed to a 1 mRem/yr dose limit, meeting participants and attendees should have been informed that NRC had performed this dose modeling.
3. There was no mention of the development and publication of draft NUREG-1761, which provides survey methodology for surficial and volumetric contamination measurements to demonstrate compliance with limits (presumably those proposed in NUREG-1640). Whether or not NRC will commit to this survey methodology, meeting participants and attendees should have been informed that NRC has developed survey methodology.

In addition, the agenda indicated that the morning session was to address the rulemaking process, NRC's status in the rulemaking process, the NEPA process, and alternatives for the disposition of solid materials. However, much of the morning was spent discussing "dirty bombs", orphan sources, and other issues that are, at best, marginally related to the issue of solid materials release. There was little discussion of the alternatives. These marginal or unrelated issues should have been placed on the "parking lot" to be discussed if the "important" topics did not require all the allotted time.

#### Licensee Representation

The regulated community should have been equitably represented. Based on my review of the participant list, four (possibly 5) of the 27 participants represented licensees. It appears NRC's primary interest is in hearing the opinions of State regulatory agencies, health physics-related organizations, Tribal entities, and organizations purporting to represent the public. Licensees who will be regulated as a result of the rulemaking had little representation. In no way would I propose leaving other entities out of the process, but NRC should make an effort to give the regulated community more equitable representation in such meetings.

#### Control of the Meeting

The NRC moderator did not provide adequate control of the meeting. During the first days' sessions, a highly disproportionate percentage of the meeting time was taken by two or three individuals who essentially "commandeered" the meeting. I observed and heard several people who left the meeting early. They decided there was no benefit in staying, because those issues that are key to the development of this rule were hardly mentioned. On Wednesday afternoon, Mr. Cameron asked the panel to spend approximately two minutes each presenting their primary concerns. A number of the panel members spent less than two minutes. Primarily because of those same "commandeers", I believe that portion of the meeting extended to approximately two hours. In elementary and high schools, a simple kitchen timer is often used with an admonition like, "Please wrap it up within 30 seconds". Environmental professionals, who should be far more capable of condensing their concerns to a summary statement, should be willing to yield to such simple and inoffensive controls on the conduct of the meeting.

#### Unimportant Observations

Due to the need for escorts, attendees who don't drink coffee had limited access to any other refreshments during the day, except at lunch time. I heard numerous people ask where they could buy a soft drink. NRC should consider providing at least a Coke machine, and/or some sort of snack machine, during public meetings.

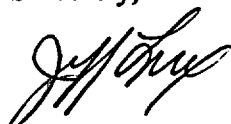
#### Security

I understand the need for increased security as a result of the "orange" level security status. NRC advised people to arrive early to allow time for security requirements. I arrived at 8:00 a.m., and there was no delay – in fact, there were few people going through security. Had people arrived early, there would have been little or no problem. Although the meeting was scheduled to begin at 8:30, it did not begin until after 9:00, and some people were upset that the meeting was started before everyone could enter. It is easy to blame "security requirements" for their frustration, but the potential delay *had* been announced beforehand. Some who arrived early so they would be there at the start of the meeting waited over an hour, while those who arrived late

missed little or none of the meeting. NRC should have started the meeting sooner, apologizing to those who were late, but not being discourteous to those who arrived early enough to be in the auditorium at 8:30.

As I stated earlier, all the above observations and recommendations are offered in the hopes that future workshops can be improved, not to complain about this particular workshop. I appreciate the opportunity to comment, and look forward to future workshops on other issues of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Lux", written in a cursive style.

Jeff Lux  
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