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2563

Testimony of Jane Garbacz  
Controlling the Disposition of Solid Materials

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Secretary, U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
Attention: Rulemaking and Adjudications Staff

**OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF**

Dear Sir,

As a member of the public living in close proximity to a 1400 ton-per-day municipal waste incinerator, several smaller hospital, sewage sludge, and pharmaceutical incinerators, a small hazardous waste incinerator, a large construction/demolition waste landfill, several sewage treatment plants, a clean fill reclamation site, as well as numerous metals and other materials recyclers, I feel compelled to offer comment on the proposed rulemaking: Controlling the Disposition of Solid Materials.

The Commissioners may not be fully aware that being a watchdog over a solid waste facility is an enormous task. It is virtually impossible to keep up with ever-changing air, water, and waste management laws, regulations, guidelines, policies, plan approvals, permits, etc.—and then studying each new proposal in order to prepare informed comment. But as difficult as monitoring one facility can be, the problem is magnified when a community hosts more than one facility. And unfortunately, solid waste facilities tend to be clustered—many times in economically disadvantaged areas.

Since 1984, I have worked to achieve some semblance of sound solid waste management in my community. In the 1980s, government officials argued that people would never recycle their trash. The regulatory agencies were even skeptical, but eventually, a bill mandating waste-to-energy for at least 40% of Pennsylvania's trash morphed into the Municipal Waste Planning, Recycling, and Waste Reduction Act which instead focused on recycling. The environmental groups and responsible industries and municipalities had succeeded in educating the government agencies. They proved the naysayers wrong. People would indeed recycle, and over the years recycling programs have expanded.

It never occurred to me during the last 20 years that the Nuclear Regulatory Commission would consider turning the concept of sound Solid Waste Management on its head. It never occurred to me that I might even want to rethink the concept of recycling. Of course, it never occurred to me that my community would be threatened by radioactive recycling, and that the risk assessments, laws, regulations, permits, etc. that I had commented on in good faith might one day become invalidated.

Since the NRC has conceded that any dose of radiation is a health threat; it would follow that Unrestricted Use, whether through measurement-based

guidelines or dose-based regulations, is unacceptable. Conditional Use beyond the perimeter of a nuclear facility is also unacceptable.

I am amazed that the NRC would be willing to categorize waste as radioactive one day, yet so easily "release" the radioactive material into the general environment the next. Yet, if the NRC accepts the unrestricted and/or conditional use alternatives, that is exactly what will happen. It will be virtually impossible to track and enforce the radioactive material. And where will the unrestricted or conditionally used radioactive material eventually go? It might be recycled--perhaps even several times, but eventually it will be disposed of in a municipal waste landfill, or processed at a waste-to-energy plant with eventual disposal of ash in a landfill. In some cases the ash will be recycled into road base and consumer goods. But, it will still be radioactive. It makes no sense to even ask the public to consider landfilling as a possible alternative since if any of the other alternatives are permitted, landfilling is inevitable.

I am aware that the Nuclear Regulatory Commission previously sought to address considerations related to release of solid materials as a part of its issuance of a Below Regulatory Concern (BRC) Policy Statement on July 3, 1990 (55 FR 27522), and that the public outcry that followed sent a clear message that deregulating radioactive waste, while economically beneficial for licensees, was a threat to the public health and welfare. I remember breathing a sigh of relief when the NRC instituted a moratorium on the BRC Policy in July 1991 while at the same time acknowledging that a more extensive public involvement process in establishing these areas would have been beneficial. This affront toward communities hosting solid waste facilities finally ended when the U.S. Congress enacted the Energy Policy Act of 1992 which revoked the BRC Policy Statement.

Nothing has changed since then, yet the BRC policy appears to have returned with a new moniker: "Controlling the Disposition of Solid Materials." The NRC doesn't even mention the dreaded word "radioactive" in the title, nor the word "waste." Even the word "release" is absent. It all sounds so benign. With little publicity, only one scoping panel was convened to consider what to include in a Generic environmental Impact Statement. The NRC may advertise this as an enhanced participatory rulemaking, but the evidence would indeed prove otherwise.

I find the fact that the waste-to-energy industry was not even included in the scoping process to be particularly disconcerting. The synergistic effect of burning a wide array of chemical and radioactive components is unknown, and mass burn incineration (the most widely used WTE method) is already problematic as a waste treatment technology since its secondary waste stream is more dangerous than the original.

The Stockholm Convention on Persistent Organic Pollutants (POPs) of which the United States is a signatory, concluded in 2001 in Annex C that "waste incinerators, including co-incinerators of municipal, hazardous or medical waste or of sewage sludge; cement kilns firing hazardous waste" are among the technologies that have the "potential for comparatively high formation and release of such unintentional POPs." Incinerators are significant sources of four of the 12 listed pollutants: dioxins, furans, PCBs, and

hexachlorobenzene. Citizens in close proximity to such facilities are already at risk with workers even more so. Just as landfilling will inevitably follow unrestricted and conditional use of slightly radioactive material, so will incineration in areas that host a municipal waste combustor. It would be unconscionable to allow any alternatives that would add to the risks that have already been inflicted upon host communities.

The No Action Alternative is also inappropriate since Regulatory Guide 1.86 was not intended to allow the release of radioactive materials into the marketplace. This ongoing recycling of radioactive material is in violation of the National Environmental Policy Act (NEPA) and the public requirements for openness. No state should have authority to release radioactive material into the public domain.

Unrestricted use of "slightly" radioactive materials, whether using measurement-based or dose-based guidelines, has the potential to put everyone at risk from the multiple, additive, and cumulative exposures to radiation. However, communities hosting one or more waste facilities have the potential to be even more greatly affected. Synergistic effects between the radioactive and chemical hazards will be unknown. Contrary to the present system where the citizenry is given public notice with an opportunity to comment on proposed facilities, this new system will be almost impossible to assess.

The Commission needs to rethink this policy very carefully. Unless segregation of all radioactive waste can be achieved with safe cradle-to-grave disposition of solid materials in a properly-sited low-level radioactive waste landfill, the only alternative may be to end the creation of the waste in the first place. If this necessitates ending nuclear facilities, so be it. The future of the planet is more important.

The decimation of sound solid waste strategies—reuse, reduction, recycling—through radioactive contamination is a very real threat to the earth's valuable resources. It is hard enough to site a waste facility in 2003. What community in the future would even consider accepting a municipal waste processing or disposal facility, or even a recycling plant, if the NRC's proposed alternatives are approved?

Thank you for your kind attention. I would appreciate it if you could acknowledge receipt of this e-mail.

Sincerely,

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