

March 17, 2004

Ms. Elizabeth Cotsworth
Director, Office of Radiation and Indoor Air
U.S. Environmental Protection Agency (6601J)
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. Cotsworth:

I am writing in regard to the recent efforts you undertook on developing the Advance Notice of Proposed Rulemaking (ANPR), "Approaches to an Integrated Framework for Management and Disposal of Low-Activity Radioactive Waste," published in the Federal Register on November 18, 2003. The Nuclear Regulatory Commission (NRC), believes the approach described in the ANPR has the potential to provide a safe and economical alternative for the disposal of low-activity radioactive waste and could facilitate site cleanup and return land and property to productive use. Currently, there are a variety of wastes with relatively low concentrations of radioactivity such as certain TENORM waste and certain decommissioning waste for which the present institutional framework is less than clear. This proposed approach could create a consistent and protective framework for limiting the risks from these materials. In addition, because EPA facilities are highly regulated and currently implement measures to protect workers and the public from the hazards at the facility, the NRC believes that the EPA and the NRC can reach agreement on appropriate, safe conditions for disposal of low-activity waste at these facilities while continuing to protect the public. Such disposal might also assist waste generators by identifying another viable option for disposal of mixed waste if EPA takes regulatory action to pursue such disposal.

We appreciate your staff's efforts to coordinate with NRC staff on the development of the ANPR. I am particularly pleased with our ongoing dialogue on how we can develop facility operating criteria that are acceptable to both our agencies. I believe that our two agencies can continue to work together to streamline the regulations governing the safe disposal of mixed waste. As a result of these interactions, the NRC has no further comments in response to the ANPR. I would note that there are now 33 NRC Agreement States as opposed to the 32 noted in the ANPR. The State of Wisconsin became an Agreement State on August 8, 2003.

We understand that you will base your decision on whether to develop regulations for disposal of low-activity radioactive waste on your analysis of the comments you receive in response to the ANPR. We will be happy to work with you on efforts involving the possibility of allowing disposal of low-activity radioactive or mixed waste in an EPA permitted facility.

Thank you for the opportunity to comment on your ANPR.

Sincerely,
/RA/
Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

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