



POLICY ISSUE

(Affirmation)

July 11, 1986

SECY-86-204

For: The Commissioners

From: Victor Stello, Jr.
Executive Director for Operations

Subject: POLICY STATEMENT ON RADIOACTIVE WASTE BELOW
REGULATORY CONCERN

Purpose: To request Commission approval to publish a policy statement which establishes standards and procedures for expeditious action on petitions to exempt waste streams.

Background: Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Public Law 99-240), requires that NRC "establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern." The Act also directs NRC to act in an expeditious manner on the petitions. The Act specifies that action implementing Section 10 of the Act is to be completed no later than 6 months after enactment (i.e., by July 1986). A copy of Section 10 is included as Enclosure A.

Discussion: There are two ways to meet the requirements in Section 10 to establish standards and procedures for considering and

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acting expeditiously on petitions for exempting waste streams. One way is to issue a Commission policy statement in the nature of regulatory guidance for expeditious action on individual petitions for rulemaking filed under 10 CFR 2.802. The second way is to undertake a comprehensive rulemaking on the associated substantive issues, such as de minimis health standards, that would reduce the issues to be considered in the individual rulemakings on petitions. A policy statement is feasible in the 6-month timeframe. A comprehensive or generic rulemaking would take 2 years or more. Swift action to meet the 6-month Congressional timeframe in Section 10 dictates that the Commission proceed with a policy statement. (Enclosure B discusses the pros and cons of each approach.)

The policy statement approach also allows NRC to accumulate experience with individual petitions. At the present time, we have only two pending petitions that request disposal of wastes as below regulatory concern. The decision on generic rulemaking depends in part on the number of petitions filed. It also depends on how effective the guidance and procedures are in enabling timely processing.

Staff is addressing the mandates of the Act in two parts. The policy statement enclosed for your approval (see Enclosure C) would establish standards, in the form of decision criteria, and the overall approach for expedited action on petitions. Work on the second part requiring development of NRC technical capability is being done in parallel.

The staff implementation plan attached to the enclosed policy statement describes the information petitioners should file, discusses the decision criteria to be used, and indicates the administrative procedures to be followed. The cited procedures are the existing agency procedures in Part 11 of NUREG/BR-0053, "Regulations Handbook." A copy of the most recent version (September 1985) of Part 11 is included as Enclosure D. Expedited handling will be achieved by a commitment to follow these procedures and to publish proposed rules in 6-12 months instead of the general goal of such publication indicated in Part 11 (see page 209). Although these procedures have been in place for some time, they have not been fully implemented. The staff plan fully implements these procedures for below regulatory concern petitions.

The basic goal is to identify and describe key properties of waste streams that will permit expedited handling of the petitions and to indicate that the petitioner is to develop the needed supporting information. The types of petitioners likely to be able to respond are trade groups and licensee or professional organizations.

Section 10's "below regulatory concern" can be interpreted to allow exemption of radioactive streams from all further regulation by the Commission or it can be interpreted "pursuant to existing authority" to allow exemption from existing Commission regulations for a particular method of disposal. The staff implementation approach adopts the latter interpretive approach for waste streams below regulatory concern and includes restrictions on the method of disposal (e.g., acceptable if sent to a municipal landfill). This approach allows for higher concentrations to be exempted than would be the case if uncontrolled releases were assumed. In addition, the volume of material which would otherwise be classified as "mixed waste" could be substantially reduced if petitions can be granted which would provide for exempted treatment or disposal of these wastes at hazardous waste facilities.

Petitions for expedited handling should address wastes common to multiple licensees. (Individual licensing actions may continue to be processed on a case-by-case basis under 10 CFR 20.302.) The decision criteria in the policy statement and implementing discussion are based in part on international practices [e.g., United Kingdom policies and recommendations of the International Commission on Radiological Protection (ICRP)]. Rulemakings granting petitions will be made a matter of compatibility for Agreement States.

Developing NRC's technical capability to independently review the petitioner's conclusions and supporting rationale involves two staff efforts. One is the development of a review handbook. The second effort involves using the computer code referenced in the staff plan to estimate impacts associated with a pending petition. The Edison Electric Institute and Utility Nuclear Waste Management Group have jointly petitioned for exemption of waste oil disposal by nuclear power plants (Docket No. PRM-20-15). The University of Utah submitted a petition (Docket No. PRM-20-14) for exempting waste with short half lives and additional biomedical wastes. The

waste oil petition was selected for testing because it had more extensive supporting information. We will provide the Commission a status report on our technical capability to act on petitions shortly.

The implementation plan attached to the policy statement indicates that the Executive Director for Operations (EDO) will issue proposed and final rules. In view of the potentially controversial nature of the rulemakings to grant petitions for wastes below regulatory concern, the Commission may wish to approve the first few proposed and final rules. However, we have written the implementation plan to minimize processing time and suggest that EDO action is in keeping with the tenor of Section 10 of the Act.

By placing the primary burden on the petitioner, the NRC resource requirements are minimized. However, some reprogramming might be necessary if a large number of petitions are filed. We need more experience to really judge the resource impacts. Resource considerations and contingency plans will be addressed to the extent possible in the status report on our technical capability.

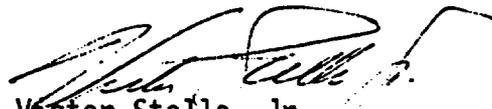
Recommendation:

That the Commission promptly approve publication of the proposed Federal Register notice in Enclosure C. Publication before the end of July 1986 is required to meet the 6-month mandate.

NOTE:

- a. That issuance of informational and procedural documents for implementing existing requirements is covered by the categorical exclusion 10 CFR 51.22(c)(16). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.
- b. That the appropriate Congressional committees are being informed by a letter similar to Enclosure E.
- c. That copies of the notice will be distributed to all Commission licensees, low-level waste compact Commissions and other state officials, and other interested persons by the Office of Administration in coordination with the Office of State Programs.

- d. That since the notice covers information petitioners should file if they wish expedited handling, it is subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), and, therefore, that Office of Management and Budget approval is being requested.
- e. That the Office of Public Affairs will attach the policy statement to a note to editors that will be issued concurrently with publication of the Federal Register notice.
- f. That the Division of Rules and Records staff has coordinated with legal staff of the Office of the Federal Register and determined that the policy statement and attachment must be published as Appendix B to 10 CFR Part 2.


Victor Stello, Jr.
Executive Director for Operations

Enclosures:

- A. Section 10 of the LLRWPA
- B. Basis for Commission Policy Statement ...
- C. FR Notice
- D. Part 11 of NUREG/BR-0053
- E. Draft letter

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Monday, July 28, 1986.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Monday, July 21, 1986, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of July 28, 1986. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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ENCLOSURE A

"SEC. 10. RADIOACTIVE WASTE BELOW REGULATORY CONCERN.

"(a) Not later than 6 months after the date of enactment of the Low-Level Radioactive Waste Policy Amendments Act of 1985, the Commission shall establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern.

"(b) The standards and procedures established by the Commission pursuant to subsection (a) shall set forth all information required to be submitted to the Commission by licensees in support of such petitions, including, but not limited to—

"(1) a detailed description of the waste materials, including their origin, chemical composition, physical state, volume, and mass; and

"(2) the concentration or contamination levels, half-lives, and identities of the radionuclides present.

Such standards and procedures shall provide that, upon receipt of a petition to exempt a specific radioactive waste stream from regulation by the Commission, the Commission shall determine in an expeditious manner whether the concentration or quantity of radionuclides present in such waste stream requires regulation by the Commission in order to protect the public health and safety. Where the Commission determines that regulation of a radioactive waste stream is not necessary to protect the public health and safety, the Commission shall take such steps as may be necessary, in an expeditious manner, to exempt the disposal of such radioactive waste from regulation by the Commission."

Health.
Safety.
Regulation.

ENCLOSURE B

Basis for Commission Policy Statement as Strategy
for Below Regulatory Concern

Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 requires that NRC establish standards and procedures for dealing expeditiously with petitions for rulemaking to exempt waste streams whose radioactive content is below regulatory concern. This mandate can be met in two ways. One is by a policy statement and the other is through generic rulemaking. The policy statement approach is recommended but both ways have merit and staff support. The following discussion outlines some of the pros and cons of each approach.

Policy Statement

- As a practical matter, the 6-month deadline in Section 10 precludes any substantive rulemaking. A policy statement is the only hope of being responsive to the deadline.
- EPA is developing standards for wastes below regulatory concern as part of their low-level waste standards effort. A policy statement would not duplicate this EPA work but would provide an interim way to deal with petitions. EPA staff have indicated that proposed rules are scheduled for publication in early 1987 well after the July NRC deadline. EPA is not required to issue such standards and Section 10 does not require that NRC base its actions on anything but its own judgment.
- The final language in Section 10 does not require that procedures and standards be established through rulemaking. Earlier versions did call for rulemaking. Thus a policy statement seems consistent with Congressional intent by wording and timing.
- The statement and experience with petitions can be subsequently codified by rulemaking if EPA does not issue standards or if experience indicates that it is necessary. None of the statement work would be wasted.
- Dealing with the cumulative impacts of the individual petitions will be somewhat more difficult following the statement approach but it can be addressed through the decision criteria, environmental assessments, and reports on disposal.
- Both the statement and rulemaking approach involve subsequent rulemaking on each individual petition. Thus, the issue is not eliminating individual rulemaking but what the nature and scope of the rulemakings will be. The statement approach leaves more issues open for debate in each individual rulemaking. Relying primarily on each petition has the advantage of focusing public attention on specific wastes that the public can relate to and understand. For example, the public is likely to understand burning oil in an on-site boiler better than philosophical arguments on radiological protection concepts.

- The decision criteria in the policy statement can address most of the same issues that would be addressed in rulemaking.

Rulemaking

- Comprehensive generic rulemaking would establish a regulatory framework based on public review and acceptance of current and developing radiological protection philosophy and scientific information.
- Generic rulemaking would minimize the issues which could be debated during each individual rulemaking on specific waste streams.
- Rulemaking instead of a policy statement would involve significant additional NRC resources.
- Rulemaking could be highly controversial and probably take several years. Even then, resolution is uncertain. EPA is reluctant to address public exposures in a completely generic fashion and is developing separate standards for residual activity in buildings and soils, recycle of materials and equipment in the public domain, and waste with no manifest potential usefulness that have radioactivity levels below regulatory concern. (Reference SECY-85-373, November 25, 1985).
- Generic rulemaking might not be necessary if the number of requests for exempt waste streams is relatively small.

ENCLOSURE C

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Radioactive Waste Below Regulatory Concern; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement.

SUMMARY: This notice contains a policy statement and staff implementation plan regarding expeditious handling of petitions for rulemaking to exempt specific radioactive waste streams from disposal in a licensed low-level waste disposal facility. For the Nuclear Regulatory Commission (NRC) to grant these rulemaking petitions, the waste streams must be sufficiently low in concentration or quantities of radionuclides for the Commission to find that they may be disposed of by alternative means without posing an undue risk to public health and safety. The policy statement and plan are in the nature of regulatory guidance for implementing existing requirements for rulemaking petitions in 10 CFR 2.802. The documents describe the kind of information petitioners should file to allow timely Commission review of the petition. They also describe decision criteria the Commission will use and the administrative procedures to be followed in order to permit the Commission to act upon the petition in an expedited manner. These documents respond to a mandate in the Low-Level Radioactive Waste Policy Amendments Act of 1985 and are being published as Appendix B to 10 CFR Part 2.

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EFFECTIVE DATE: (60 days after publication or upon Office of Management and Budget (OMB) approval of the information collection if OMB approval has not been obtained by 60 days after publication.)

ADDRESSEES: Send any written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Attention: Docketing and Service Branch. Comments received within 60 days would be most helpful. Copies of comments received by the Commission may be examined or copied for a fee at the U.S. Nuclear Regulatory Commission (NRC) Public Document Room, 1717 H Street NW, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Kitty S. Dragonette, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 427-4300.

For the reasons set forth below and under the authority of The Atomic Energy Act of 1954 as amended, The Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, The NRC is adopting the following amendments to 10 CFR Part 2.

PART 2 - RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEDURES

1. The authority citation for Part 2 is revised to read as follows:

AUTHORITY: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91-580, 84 Stat. 1437, (42 U.S.C. 2135). Appendix B is also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Insert the following policy statement and attached staff implementation plan as Appendix B to Part 2:

Appendix B to Part 2 - General Statement of Policy and Procedures Concerning Petitions Pursuant to §2.802 for Disposal of Radioactive Waste Streams Below Regulatory Concern

- I. Introduction and Purpose
- II. Standards and Procedures
- III. Agreement States
- IV. Future Action

I. Introduction and Purpose

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (the Act) (42 U.S.C. 2021b et seq.) was enacted January 15, 1986. Section 10 of the Act addresses disposal of wastes termed "below regulatory concern" that would not need to be subject to regulatory control to assure adequate protection of the public health and safety because of their radioactive content. The goal of this section of the Act is for the Commission to make practical and timely decisions to determine when wastes need not go to a licensed low-level waste disposal site. These decisions will be expressed through rulemaking.

Alternative disposal would conserve space in the existing sites while new sites are established and reduce the costs of disposal. Rulemaking petitions may play a role in the national low-level waste strategy outlined by the Act. The Act provides that the Commission establish procedures for acting expeditiously

on petitions to exempt specific radioactive waste streams from the Commission's regulations.

The purpose of this statement and accompanying implementation plan is to establish the standards and procedures that will permit the Commission to act upon rulemaking petitions in an expeditious manner as called for in the Act. This policy statement does not require petitioners to present all the information outlined or demonstrate that the decision criteria for expedited handling can be met, if such expedited handling is not wanted. For example, petitions requesting exemption of concentrations of radionuclides that might result in individual exposures higher than those recommended in the decision criteria may be submitted, but expedited handling cannot be assured.

Finally, this policy statement and accompanying implementation plan are intended to facilitate handling of rulemaking petitions for streams from multiple producers and do not apply to individual licensing actions on single producer waste. Individual licensees who seek approval for disposal of their unique wastes may continue to submit their proposed disposal plans under 10 CFR 20.302(a).

II. Standards and Procedures

The standards and procedures needed to handle petitions expeditiously fall into the following three categories: (1) information petitioners should file in support of the petitions, (2) standards for assessing the adequacy of the proposals and providing petitioners insight on the decision criteria the Commission intends to use so that all relevant informational issues will be addressed in the petition, and (3) the internal NRC administrative procedures

for handling the petitions. These three categories are addressed in the attached staff implementation plan. The staff plan was developed in response to Commission direction to provide detailed guidance on implementing the general approach outlined in this policy statement. Although staff may revise it from time to time as experience is gained in processing petitions, the plan outlines a reasonable basis for accomplishing the approach. Staff is to publish revisions as NUREG documents and notice the availability of the revisions in the Federal Register.

As a practical matter, the primary information for justifying and supporting petitions must be supplied by the petitioner if the Commission is to act in an expedited manner. If the petitioner wishes to assure expedited action, the supporting information should be complete enough so that Commission action is primarily limited to independent evaluation and administrative processing.

Decision criteria for judging whether to grant a petition involve the overall impacts of the proposed action, waste properties, and implementation of the proposed exemption. The following criteria address these areas. Petitions which demonstrate that these criteria are met should be suitable for expedited action.

1. Disposal and treatment of the wastes as specified in the petition will result in no significant impact on the quality of the human environment.

2. The maximum expected effective dose equivalent to an individual member of the public does not exceed a few millirem per year for normal operations and anticipated events.

3. The collective doses to the critical population and general population are small.
4. The potential radiological consequences of accidents or equipment malfunction involving the wastes and intrusion into disposal sites after loss of normal institutional controls are not significant.
5. The exemption will result in a significant reduction in societal costs.
6. The waste is compatible with the proposed treatment and disposal options.
7. The exemption is useful on a national scale, i.e., it is likely to be used by a category of licensees or at least a significant portion of a category.
8. The radiological properties of the waste stream have been characterized on a national basis, the variability has been projected, and the range of variation will not invalidate supporting analyses.
9. The waste characterization is based on data on real wastes.
10. The disposed form of the waste has negligible potential for recycle.
11. Licensees can establish effective, licensable, and inspectable programs for the waste prior to transfer to demonstrate compliance.

12. The offsite treatment or disposal medium (e.g., sanitary landfill) does not need to be controlled or monitored for radiation protection purposes.

13. The methods and procedures used to manage the wastes and to assess the impacts are no different from those that would be applied to the corresponding uncontaminated materials.

14. There are no regulatory or legal obstacles to use of the proposed treatment or disposal methods.

III. Agreement States

The Low-Level Radioactive Waste Policy Amendments Act of 1985 establishes a national system for dealing with low-level waste disposal. The system assigns to the States responsibility for disposal capacity for low-level wastes not exceeding Class C wastes as defined in 10 CFR 61.55. Section 10 of the Act encourages a reduction in volume of such wastes subject to State responsibility for disposal through the option of determining that certain wastes need not go to existing licensed disposal facilities or new sites licensed under 10 CFR Part 61 or equivalent State regulations. If radiological safety can be assured, such disposal would conserve space in the existing sites while new sites are developed, and would serve as an important adjunct to volume reduction efforts in meeting the waste volume allocation limits set forth in the Act. Thus, these rulemakings should aid the States in fulfilling their responsibilities under the Act. Equity also suggests that all waste generators be able to take advantage of below regulatory concern options as part of their waste management strategies. Generators in both Agreement and non-Agreement

States will be competing for space in the existing sites and the concept should be applicable nationwide.

Agreement States will play an important role in ensuring that the system works on a national basis and that it remains equitable. States have been encouraging findings that certain wastes are below regulatory concern and do not have to go to low-level waste sites. The States have been voicing this view for a number of years through forums such as the Conference of Radiation Control Program Directors. Rulemakings granting petitions will be made a matter of compatibility for Agreement States. Consequently, rulemaking will be coordinated with the States.

IV. Future Action

The Commission may consider ¹⁵ ~~revising this policy statement or conducting~~ a generic rulemaking on waste streams below regulatory concern based on a number of factors. ⁱⁿ ~~on ANPR will be public within 90 days,~~ The factors include public comments received on the statement, the number and types of petitions for rulemaking received, and how effective the statement is in enabling timely processing of petitions. If there is a large demand for Commission action on petitions, generic rulemaking may be warranted to provide a more efficient and effective means of accomplishing the goals reflected in Section 10 of the Act. Furthermore, the Commission may periodically review all rulemakings in order to assure that the relevant parameters have not changed significantly and may ask the petitioner to submit

updated information to assist in the review. The Commission would also have to confirm that approved exemptions are consistent with any general standards issued by EPA.

Dated at Washington, D.C. this _____ day of _____, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary to the Commission.

Nuclear Regulatory Commission Staff Implementation
of Nuclear Regulatory Commission Policy
on
Radioactive Waste Below Regulatory Concern

I. Introduction

II. Information to Support Petitions

A. General

1. 10 CFR Part 2 Requirements
2. Environmental Impacts
3. Economic Impact on Small Entities
4. Computer Program
5. Scope

B. Waste Characterization

1. Radiological Properties
2. Other Considerations
3. Totals
4. Basis
5. As Low as Reasonably Achievable (ALARA)

C. Waste Management Options

D. Analyses

1. Radiological Impacts
2. Other Impacts
3. Regulatory Analysis

E. Recordkeeping and Reporting

1. Surveys

2. Reports

F. Proposed Rule

III. Decision Criteria

IV. Administrative Handling

I. Introduction

Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 requires the Nuclear Regulatory Commission (NRC) to develop standards and procedures for expeditious handling of petitions for rulemaking to exempt disposal of radioactive waste determined to be below regulatory concern. The Act also requires NRC to identify information petitioners should file. The Commission Policy Statement provides general guidance on how to meet the requirements of Section 10 of the Act outlines the overall approach to be followed and lists decision criteria to be used. Implementation of the general approach and decision criteria of the Commission Policy Statement involves developing more detailed guidance and procedures. In accordance with Commission direction, the NRC staff has developed more detailed guidance and procedures for implementation of the Commission Policy Statement. This staff guidance and procedures cover: (1) information petitioners should file in support of petitions to enable expedited processing, (2) discussion of the decision criteria, and (3) administrative procedures to be followed.

II. Information to Support Petitions

A. General

1. 10 CFR Part 2 requirements. The codified information requirements for petitions for rulemaking are outlined in the Commission's regulations in 10 CFR 2.802(c). These regulations require the petitioner to identify the problem and propose solutions, to state the petitioner's grounds for and interest in the action, and to provide supporting information and rationale. As a practical matter, the information demonstrating that the radiological health and safety impacts are so low as to be below regulatory concern must be provided by the petitioner if the Commission is to act in an expedited manner. Petitions for rulemaking should therefore be submitted following the staff's supplemental guidance and procedures to assure expedited action.

2. Environmental impacts. Petitions must enable the Commission to make a finding of no significant impact on the quality of the human environment. Such Commission findings must be based on an Environmental Assessment that complies with 10 CFR 51.30 and must meet the requirements of 10 CFR 51.32. These requirements include addressing the need for the proposed action, identifying alternatives, and assessing the potential environmental impacts of the proposed action and alternatives. Consistent with 10 CFR 51.41, the petitioner should submit the information needed to meet these requirements and do so in a manner that permits independent evaluation by the Commission of the data and methodology used and the conclusions reached.

3. Economic impact on small entities. When a rulemaking action is likely to have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires that the impacts on these small entities must be specifically addressed. (The Commission's size standard for identifying a small entity is \$3.5 million or less in annual receipts except for private practice physicians and educational institutions where the standard is \$1 million or less in annual receipts for private practice physicians and 500 employees for educational institutions. See 50 FR 50241, December 9, 1985.) For any rulemaking, the Commission must either certify that the rule will not economically impact or will have no significant economic impacts on small entities, or present an analysis of alternatives to minimize the impacts. Because rulemakings on below regulatory concern should provide relief from requirements for all affected entities, satisfaction of this requirement should be straightforward but it must be addressed in any rulemaking. To facilitate expeditious preparation of the proposed rule responding to the petition, the petitioner should submit an evaluation of the estimated economic impacts on small entities. The evaluation should include estimates of the costs for small entities in terms of staff time and dollar costs. Any alternatives that could accomplish the objective of the petitioner's proposed rule while minimizing the economic impact on small entities should be presented. The evaluation should include an assessment of the incremental recordkeeping and reporting costs that would be associated with the petitioned rule change.

4. Computer program. The computer program (IMPACTS-BRC) the Commission intends to use to independently evaluate petitioners' assessments of impacts is based on "De Minimis Waste Impacts Analysis Methodology" (NUREG/CR-3585) published February 1984.¹ Petitioners are encouraged to consult NUREG/CR-3585 in order to better understand the Commission's information needs. The IMPACTS-BRC program will be distributed by the National Energy Software Center on floppy diskettes for use on IBM-PC and compatible computers. The Center's address is 9700 South Cass Avenue, Argonne National Laboratory, Argonne, Illinois 60439. The users guide for IMPACTS-BRC will be published as a draft Volume II of NUREG/CR-3585. Petitioners may evaluate the impacts of the proposed activity using NRC's code, if desired. When alternate calculational methodologies are used, the petitioner should provide all the specific input needed to analyze the waste stream in the petition using IMPACTS-BRC and provide a rationale for all parameter selections. The Commission may clarify or modify the computer code from time to time. Petitioners choosing to use NRC's code should be sure to use the current revision. The National Energy Software Center will provide changes to persons obtaining the program from the Center. Users are encouraged to comment on the code so that their experience can be factored into future revisions.

5. Scope. The petitioner should define the geographic area to which the proposed rule should apply and the reasons supporting any area less than national in scope. It might be possible to justify limiting the scope to a low-level waste regional compact or a state but implementation issues such as import or export of wastes outside the compact or state should be addressed in the rationale.

packages or containers used to manage (i.e., store, handle, ship, or dispose) the wastes. The variability and potential changes in the waste form as a function of process variation should be addressed. The variation among licensees should be described and bounded.

Compatibility with requirements associated with the proposed management options should be carefully presented. For example, if the petitioner proposes that the wastes be incinerated, the waste form should be shown to be compatible with the temperatures, flow rates, feed rates, and other operating parameters of typical incinerators that may be used. The petitioner should identify the minimum requirements an incinerator must meet to assure adequate combustion. The form and volume of the ash and other residue from incineration should be described. Similar consideration for disposal at sanitary landfills or hazardous waste sites should be addressed. For example, wastes that include components or properties that would qualify the waste as a "hazardous waste" under EPA rules in 40 CFR Parts 260 through 265 should not be proposed for disposal at a municipal landfill.

The potential for recycle should be presented. Possible treatment, such as shredding, that would reduce the recycle potential should be described. Both the resource value (e.g., salvageable metals) and the functional usefulness (e.g., usable tools) should be addressed. Both short- and long-term potentials for recycle are of significant concern to the Commission.

3. Totals. A subsequent rulemaking based upon an accepted petition is generic, and the exemption will likely be used nationwide. Therefore, to the extent possible, the petitioner should estimate the number of NRC and Agreement State licensees that produce the waste, the annual volumes and mass, and the

total annual quantities of each radionuclide that would be disposed of. The estimates should include the current situation and the likely variability over the reasonably foreseeable future. If the petition is for a proposed rule that will be limited to less than national scope (e.g., a state or compact region), the totals should be estimated for the petitioned scope. A concentration distribution would be a helpful tool in characterizing the waste stream. For example, the petitioner could indicate that 10% of the wastes fall in the range of 1-10 picocuries per gram, 60% fall in the 10-100 range, and 30% in the 100-1,000 range. Such distribution would permit more realistic assessment of impacts in addition to conservative bounding estimates using maximum values. In any case, the typical quantities produced per generator and an estimate of the geographic distribution of the generators should be described.

4. Basis. The basis for the waste stream characterization should be provided. The basis for characterization of the wastes and the total quantities produced should be described. Monitoring, analytical data, and calculations should be specified. Actual measurements or values that can be related to measurements to confirm calculations are important. The description of the bases should include quality assurance aspects. For example, the petitioner should describe the number of samples measured, the representativeness of the samples, and the appropriateness of the instruments used. The statistical confidence in the estimates should be evaluated. If the petitioner conducted any surveys of licensees or relied on surveys by others to help quantify the amount and content of wastes, they should be described. Market information might be useful in characterizing waste generation on a national basis. Designation as a "trace concentration" should be related to

specified detection limits, but detection limits themselves are not sufficient reason to dismiss trace concentrations when methods exist to infer concentrations.

For estimates of the radionuclide content of the waste stream, the petitioner may take advantage of licensee experience in classifying wastes for disposal at low-level waste sites. For example, the transuranic radionuclide content of the wastes would likely be below detection limits, but licensees have already established scaling factors for estimating the transuranic content of wastes as part of complying with 10 CFR Part 61 waste classification requirements. Waste generators use generic scaling factors and factors established for their specific wastes through sophisticated analyses. The scaling factors are used to infer the presence and concentrations of many radionuclides based on measurement of only a few nuclides. The classification scheme in 10 CFR Part 61 has been in effect since December 1983. Considerable data and experience should be available to allow characterizing the radiological content and composition of the waste stream being addressed in the petition. The same principles outlined in 10 CFR 61.55(a)(8) may be applied, i.e., values based on direct measurements, indirect methods related to measurements, or material accountability.

5. As low as is reasonably achievable (ALARA). The Commission's ALARA requirement in 10 CFR 20.1(c) applies to efforts by licensees to maintain radiation exposures and releases of radioactive materials in effluents to unrestricted areas as low as is reasonably achievable. 10 CFR Part 50, Appendix I, describes ALARA for radioactive materials in light water reactor

effluents. Licensee compliance with 10 CFR 20.1(c) is a precondition to acceptance by NRC of any waste stream as exempt. Therefore, a description should be provided of reasonable procedures that waste generators would be expected to use to minimize radiation exposures resulting from the disposal of the exempt waste, e.g., removal of surface contamination. These procedures are assumed to apply prior to characterizing the waste to be exempted.

C. Waste Management Options

The management options that the Commission can deal with expeditiously are those described in NUREG/CR-3585. Onsite options include incineration and burial. Offsite options are municipal waste disposal facilities (sanitary landfills), municipal waste incinerators, hazardous waste disposal facilities, and hazardous waste incinerators. Pretreatment, e.g., shredding of otherwise potentially recyclable materials, is a potential adjunct to either onsite or offsite options. Combinations of these options can also be evaluated. For example, wastes may be incinerated on site and the ash shipped to a sanitary landfill. The favored disposal options should be identified and fully described. The petitioner should evaluate a full range of options. The practicality of the proposed option(s) should be presented. Waste compatibility discussed earlier is one aspect. The national availability and distribution of the option is another. Updates on national regulations and laws pertaining to the proposed option should be described and might have to be considered in selecting acceptable options.

D. Analyses

To support and justify the submittal, each petitioner should include analyses of the radiological impacts associated with handling, transport, and disposal of the specific wastes. Any incremental nonradiological impacts should be assessed. Also the petitioner should use the analyses to prepare and submit a detailed regulatory analysis with the petition.

1. Radiological impacts. The evaluation of radiological impacts should distinguish between expected and potential exposures and events. Impacts should be assessed for the expected concentrations and quantities of radionuclides. The petitioner should quantitatively evaluate the impacts from the proposed waste for each option requested. The petitioner should clearly relate the analytical findings to specific provisions in the recommended rule changes. For example, the basis for each recommended radionuclide limit should be clearly explained.

The radiological impacts included in NUREG/CR-3585 and in NRC's computer program (IMPACTS-BRC) cover exposures to workers and individual members of the public and cumulative population exposures. The program calculates both external direct gamma exposures and exposures from ingested or inhaled radionuclides. NRC's computer program can be used to calculate the expected radiological impacts from generator activities, transportation, treatment, disposal operations, and post-disposal impacts. The program can analyze a wide range of management options including onsite treatment and disposal by the generator, shipment to municipal waste management facilities, and shipment to hazardous waste management facilities. The program covers impacts beginning with initial handling and treatment by the generator through final disposal of

all the radionuclides contained in the waste stream. Sequential treatment, sorting, and incineration onsite and at municipal and hazardous facilities can be assessed. Disposal of resulting ash and residue is included. Post-disposal impacts that can be calculated include releases due to intrusion, ground-water migration, erosion, and leachate accumulation. The program thus addresses both expected and potential post-disposal impacts.

The petitioner's analysis of transport impacts should be based on a reasonably expected spacial distribution of licensees and waste treatment and disposal facilities which will accept the wastes. The petitioner should address parameters such as average and extreme transport distances. The petitioner's analysis should address the basis for parameter selection and characterize the expected patterns (e.g., indicate how likely the extreme case may be). In addition, the petitioner's analysis should also address potential exposures from handling and transport accidents. The petitioner's analysis of accidents should include all assumptions, data, and results to facilitate review. The potential for shipment of the entire waste stream to one or a few facilities should be assessed. This scenario currently exists for 10 CFR 20.306 exempted liquid scintillation wastes and might result from very limited numbers of treatment facilities or decontamination services. The analysis of impacts for transport, handling, and disposal should include evaluation of this potential circumstance unless it can be clearly ruled out.

As suggested in Paragraph 89 on page 20 of ICRP Publication 46²:

Exception from regulation and requirements on these bases should not be used to make it possible to dispose of large quantities of radioactive

material in diluted form, or in divided portions, causing widespread pollution which would eventually build up high dose levels by the addition of many small doses to individuals. Nor should they be used to exempt activities that, by isolation or treatment, have been made temporarily harmless but that imply large potential for release and could give rise to high individual doses or high collective doses.

The analysis of expected radiological impacts should clearly address:

- The maximum individual exposures.
- The critical group exposures
- The cumulative population exposures.

The maximum individual exposure evaluation should include exposures to all members of the public who may be exposed beginning with the initial handling at the generator's facility through post-closure. Both internal uptake and external exposures should be included. The individual may be a member of the general population (e.g., consumer of contaminated ground water) or a person receiving the exposure from his or her occupation. Anyone who may be exposed and is not a radiation worker should be considered a member of the public. For example, a worker at a sanitary landfill or a commercial trash truck driver would not be a radiation worker. However, occupational exposures to radiation workers should be evaluated and considered in the cost/benefit analysis of the incremental impacts between disposal at a licensed facility and the requested disposal options.

The total population exposures can be estimated and summed in two parts. One part is the smaller critical group (usually the occupationally exposed

population) where potential exposures may be higher on an individual basis but the exposures and the number of exposed individuals are more predictable and the exposures are short-term. The critical group should be the segment of the population most highly exposed exclusive of radiation workers. The other part is the general population where the expected exposures and size of the exposed population are less predictable, potential individual exposures are probably much smaller, and exposures may extend over longer timeframes. Presentation of the population exposures in these two parts should contribute to a more meaningful cost/benefit analysis.

2. Other impacts. The NRC action to exempt the radiological content of the wastes would not relieve persons handling, processing, or disposing of the wastes from requirements applicable to the nonradiological properties. The petition should demonstrate that the nonradiological properties of the radioactive waste are the same as the nonradioactive materials normally handled and disposed of by the proposed methods. If the nonradiological properties are similar and the volumes of exempted waste would not impact the normal operations, there should be no incremental impacts. If the petitioner is aware of other impacts which should be considered for the specific wastes in the petition, the petitioner should also address the additional impacts.

3. Regulatory analysis. In order to expedite subsequent rulemaking if the petition is granted, the analysis should also address the topics NRC must address in a Regulatory Analysis (e.g., see NUREG/BR-0058, Revision 1, "Regulatory Analysis Guidelines of the U.S. Nuclear Regulatory Commission").¹ Following the Regulatory Analysis format will structure the analytical

findings, present the bases for decisions, and address the environmental assessment requirements. The topics are:

(1) A statement of the problem. This topic is the need for determining which wastes may be safely disposed of by means other than shipment to licensed low-level waste sites.

(2) Alternatives. All reasonable alternatives to the proposed action should be described. The no action or status quo alternative should always be included.

(3) Consequences. This topic calls for an analysis of the impacts of each alternative described. The factors the petitioner should address include costs and benefits and practical or legal constraints. Cost/benefit considerations and constraints are discussed more fully after this listing of topics.

(4) Decision rationale. This topic is a conclusions statement that explains why the preferred alternative(s) should be adopted.

(5) Implementation. This topic covers the steps and schedules for actual implementation of the proposed rule. The petitioner should address the topic from the waste generator's perspective and include surveys discussed under Topic III.A.5. Recordkeeping and Reporting.

A cost/benefit discussion is an essential part of both environmental and regulatory impact considerations and is, therefore, essential to expedited

handling. The discussion should focus on expected exposures and realistic concentrations or quantities of radionuclides. The cost/benefit discussion should include the differential exposure and economic costs between disposal at a licensed low-level waste disposal site and the proposed option(s). It may also include qualitative benefits. Reduced hazards from not storing hazardous or combustible materials might be a benefit. Elimination or reduction of the hazardous properties (e.g., by incineration) could be another. Detrimental costs might also be qualitative such as loss of space in municipal or hazardous waste sites. The economic impact on the licensed site operations (i.e., loss of income from diverted wastes) and its potential effect on the availability of economic and safe disposal should be addressed. Costs of surveys and verifying compliance discussed under Topic II.E. Recordkeeping and Reporting should also be covered. The cost/benefit should also reflect ALARA considerations. Radiation worker exposure, public exposure, and environmental releases might be appropriate in ALARA considerations. In weighing the exposure costs and economic costs for light-water-cooled nuclear reactor wastes, the petitioner could use, for perspective, the \$1,000 per person-rem guideline in 10 CFR Part 50, Appendix I, for effluent releases from these facilities.

The petitioner should identify any legal or regulatory constraints that might impact implementation of the petitioned change. The compatibility of the waste with the proposed method of disposal was discussed under Topic II.B.2. Other constraints might stem from Department of Transportation (DOT) labeling, placarding, and manifesting requirements for radioactive materials. Since the receiving facility will not be licensed to receive radioactive materials, this could be an impediment to implementation. For most radioactive materials, the general DOT threshold limits of 0.002 microcuries

per gram apply. However, the DOT issued a final rule on June 6, 1985 (50 FR 23811) that amended 49 CFR Part 173 to exempt low specific activity wastes as described in NRC's rules in 10 CFR 20.306. (Note that DOT emphasized that the wastes remain subject to the provisions related to other hazards; see 49 CFR 173.425(d).)

C. Recordkeeping and Reporting.

1. Surveys. Existing regulations in §10 CFR 20.201 establish general NRC requirements for performing surveys as necessary to comply with Part 20. Licensees would have to conduct surveys of the waste properties prior to release for exempt disposal to verify that the waste meets the prescribed limits. Such survey programs might consist of (1) fairly comprehensive initial sampling and analysis to confirm that the licensee's wastes will fall below the limits, (2) periodic analyses as part of a process or quality control program to confirm the initial findings, and (3) a routine survey program prior to release of wastes to monitor for gross irregularities. To show that licensees can be expected to conduct compliance surveys prior to waste transfer, the petitioner should describe a sample survey program. The three components just discussed should be included, if appropriate, for the waste stream. Records of the surveys would be maintained for inspection.

2. Reports. The petitioner should assume that annual reports on disposals will be required and that associated recordkeeping to generate the reports will be imposed. Minimum information in the annual reports initially might include the type of waste, its volume, its estimated curie content, and the place and manner of disposal. Increased recordkeeping and reporting

requirements would address uncertainties in projecting future volumes or amounts of wastes and NRC's responsibility to consider the cumulative impacts of multiple exemptions. When these requirements are proposed, Office of Management and Budget (OMB) approval is required. To facilitate NRC filing for OMB approval, the petitioner should include any duplicating or overlapping reporting requirements, the number and type of expected respondents, suggestions for minimizing the burden, estimates of the staff hours and costs to prepare the reports and keep the records, and a brief description of the basis for the estimates. The petitioner should also address whether changes in technical specifications or licenses may be needed.

F. Proposed Rule. The petition should include the text for the proposed rule (see 10 CFR 2.802(c)(1)). The proposed text should cover at least the following:

(1) The quantity and/or concentration limit for each radionuclide present (trace radionuclides could be lumped together with a total limit);

(2) A method to deal with radionuclide mixtures;

(3) The nonradiological specifications necessary to adequately define the waste; and

(4) The specific method(s) of exempt disposal.

If practicable, and if the supporting information indicates the need, the text should also address other features such as annual limits on each generator

in terms of volume, mass, or total radioactivity, and administrative or procedural requirements including process controls, surveys, etc., that have been discussed. The text should not include the various dose limits used to justify the proposed radionuclide limits.

III. Decision Criteria

The Commission policy statement establishes that the following criteria should be used by staff as guidelines for acting on a petition. Each criterion is repeated and staff views on implementation are discussed.

1. Disposal and treatment of the wastes as specified in the petition will result in no significant impact on the quality of the human environment.

Discussion: Unless this finding can be made using information submitted by the petitioner, the Commission must prepare an Environmental Impact Statement to more fully examine the proposed action, alternatives to the proposed action, and associated potential impacts of alternatives. Preparation would likely involve contractual support and would likely take 2 years or more to complete. The Commission could not act on the petition in an expedited manner.

2. The maximum expected effective dose equivalent to an individual member of the public does not exceed a few millirem per year for normal operations and anticipated events.

Discussion: The effective dose equivalent means the ICRP Publication 26 and 30^3 sum of the dose from external exposure and the dose incurred from that

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year's intake of radionuclides. While a range of 1-10 millirem per year might be acceptable, a one millirem dose would facilitate expedited processing. Higher doses may require more extensive justification. Based on a mortality risk coefficient for induced cancer and hereditary effects of 2×10^{-4} per rem (ICRP Publication 26), radiation exposure at a level of 1 millirem per year would result in an annual mortality risk of 2×10^{-7} (i.e., 2×10^{-4} effects/rem $\times 10^{-3}$ rem/year).

The EPA is developing criteria for identifying low-level radioactive waste that may be below regulatory concern as part of that agency's development of general environmental standards for low-level waste disposal. The EPA published an Advance Notice of Proposed Rulemaking on August 31, 1983 (48 FR 39563) and currently hopes to publish proposed standards in early 1987. The cost-effective dose limit used by EPA for initiating action by municipal drinking water treatment facilities is an individual organ dose of 4 millirems per year. This drinking water criterion provides additional perspective on population doses. Other EPA standards that the doses can be compared to are the Clean Air Act radioactive release standard of 25 millirems per year in 40 CFR Part 61 and the uranium fuel cycle annual whole body limit of 25 millirems in 40 CFR 190.

One millirem is very small when compared to naturally occurring background doses from cosmic and terrestrial sources. Background doses in the United States are typically in the 100-200 millirems per year range. One millirem is also small when compared to the annual 500 millirem dose limit for individual members of the general public in Federal Radiation Council guidance.

An important feature is that doses of up to 1 millirem from an individual petition should minimize concerns over exposure to multiple exempted waste

streams. ICRP Publication 46 addressed individual dose limits and other issues related to exemptions and stated, in paragraphs 83 and 84 on page 19:

Many radiation exposures routinely encountered in radiation protection, particularly those received by members of the public, are very small by comparison with dose limits or natural background, and are well below dose levels at which the appearance of deleterious health effects has been demonstrated. In individual-related assessments, it is widely recognized that there are radiation doses that are so small that they involve risks that would be regarded as negligible by the exposed individuals. Studies of comparative risks experienced by the population in various activities appear to indicate that an annual probability of death of the order of 10^{-6} per year or less is not taken into account by individuals in their decisions as to actions that could influence their risks. Using rounded dose response factors for induced health effects, this level of risk corresponds to an annual dose of the order of 0.1 mSv [10 millirem].

However, in most practical cases, the need for exemption rules arises in source-related assessment, to decide whether a source or waste stream should be subject to control. Consideration should be given to the need for any optimization of radiation protection and to the possibility that many practices and sources of the same kind could combine now or in the future so that their total effect may be significant, even though each source causes an annual individual dose equivalent below 0.1 mSv [10 millirem] to individuals in the critical group. This may involve assessments of dose commitments and of the collective dose per unit

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practice or source, in order to ensure that the individual dose requirement will not be exceeded now or in the future. It seems almost certain that the total annual dose to a single individual from exempted sources will be less than ten times the contribution from the exempted source giving the highest individual dose. This aspect could, therefore, be allowed for by reducing the annual individual dose exemption criterion from 0.1 to 0.01 mSv [10 to 1 millirem].

The NRC staff recognizes that at times, human reactions are not so strictly governed by quantitative considerations as the ICRP excerpt suggests. Nevertheless, the 10^{-6} per year value seems about as low as practicable, seems too low to justify significant concern, and so seems acceptable.

The United Kingdom's National Radiological Protection Board has issued generic guidance on de minimis dose levels (ASP-7, January 1985)⁴ that has status similar to Federal Radiation Guidance issued by the President in this country. The Board identified effective dose equivalents of 5 millirem per year as insignificant when members of the public make their decisions. The 5 millirem limit represents the total dose contribution from all exempted practices. For individual practices, the Board divided by 10 (i.e., 0.5 millirem per year) to account for exposures from multiple practices. These limits are applied generically. Less conservatism under the well defined circumstances associated with specific waste streams and disposal options envisaged in this NRC statement seems justified. In a proposed policy statement dated May 6, 1985,⁵ the Canadian Atomic Energy Control Board specifically addressed disposal of specific wastes that are of no regulatory

concern. An individual dose limit of 5 millirems per year was proposed for this limited application.

A maximum individual exposure of 1 millirem per year is also consistent with Appendix I to 10 CFR Part 50. Appendix I specifies design objective doses for operational light-water-cooled nuclear power reactor effluents. These design objectives include annual total body doses of 3 millirems for liquid effluents and 5 millirems for gaseous effluents. If onsite incineration at reactors is petitioned for as a specified disposal option, the petitioner should address how the proposed activity, combined with all other effluents from the sites, would not exceed the design objective doses in Appendix I to 10 CFR Part 50.

3. The collective doses to the critical population and general population are small.

Discussion: An additional advantage when individual doses are no more than 1 millirem per year is that the collective doses are then summations over very small exposures. The collective dose evaluation is primarily for information purposes, cost/benefit considerations, and to confirm the finding of no significant impact on the quality of the human environment. This determination will be made based on information available during the review of each petition in concert with criterion 5. Staff notes that the United Kingdom policy on individual dose limits includes an associated collective dose criterion. (The collective dose criterion must be met in addition to the individual limits). In ICRP Publication 46, a similar criterion is stated.

4. The potential radiological consequences of accidents or equipment malfunction involving the wastes and intrusion into disposal sites after loss of normal institutional controls are not significant.

Discussion: Potential doses from accidents or intrusion should be well within public exposure limits and take into account the probability or possibility of such events. In a statement dated April 26, 1986,⁶ the International Commission on Radiological Protection (ICRP) stated that the ICRP's present view is that the principal dose limit for members of the public is 100 millirems in a year. The ICRP further stated that the 500 millirem limit from ICRP Publication 26 could be used as a subsidiary limit provided the lifetime average does not exceed the principal limit. Consequently, potential exposures from accidents or unexpected events would be more easily justified if they are well below 100 millirem per year principal limit.

5. The exemption will result in a significant reduction in societal costs.

Discussion: When the economic and exposure costs associated with the exemption are compared to disposal at a licensed low-level waste site there should be a significant reduction in costs.

6. The waste is compatible with the proposed treatment and disposal options.

Discussion: This criterion relates to the nonradiological properties of the wastes. For example, disposal of radioactive wastes that also qualify as a nonradiological hazardous material should be proposed for disposal methods in accord with EPA regulations (e.g., incineration or disposal at a hazardous waste facility). Also, wastes proposed for incineration should be combustible and wastes proposed for landfills should be appropriate for disposal in typical landfills anywhere in the nation.

7. The exemption is useful on a national scale, i.e., it is likely to be used by a category of licensees or at least a significant portion of a category.

Discussion: Rulemaking is usually not warranted for wastes involving a single licensee, whether a continuing disposal activity or a one-time disposal. Such proposals by individual licensees are normally processed as licensing actions under 10 CFR 20.302(a).

8. The radiological properties of the waste stream have been characterized on a national basis, the variability has been projected, and the range of variation will not invalidate supporting analyses.

Discussion: One of the merits of dealing with specific waste streams is that the actual properties of the waste stream can be relied upon in estimating impacts rather than conservative bounding parameters. The specific pathways that must be considered can be limited to manageable numbers. The expected fate can be credibly limited based on the properties.

9. The waste characterization is based on data on real wastes.

Discussion: Actual data on real waste provide reasonable assurance that the waste characterization is accurate.

10. The disposed form of the waste has negligible potential for recycle.

Discussion: Eliminating the uncertainties associated with recycle is necessary to expeditious handling. Specifying specific wastes and specific methods of disposal narrows the pathways and timeframes to manageable numbers.

11. Licensees can establish effective, licensable, and inspectable programs for the waste prior to transfer to demonstrate compliance.

Discussion: Survey programs and quality control programs will be needed to provide reasonable assurance that actual wastes disposed of under an

exemption rule meet the specified parameters. Since disposal would be exempted based on both established and projected waste characteristics, reporting on the wastes actually transferred for below regulatory concern disposal will be important and should be practical.

12. The offsite treatment or disposal medium (e.g., sanitary landfill) does not need to be controlled or monitored for radiation protection purposes.

Discussion: The evaluation of expected exposures should provide the basis for meeting this criterion. However, this is an area where NRC will have a continuing responsibility as multiple petitions are processed. Reporting on actual disposals will help NRC address this responsibility and monitor the adequacy of the limits included in the exempted disposals.

13. The methods and procedures used to manage the wastes and to assess the impacts are no different from those that would be applied to the corresponding uncontaminated materials.

Discussion: Since the receiving facility will not be licensed for radioactive materials, special handling or measures should not be required at the processing or disposal sites because of the radioactive content of the wastes. This criterion also means that realistic assumptions about the disposal methods have been made in estimating exposures.

14. There are no regulatory or legal obstacles to use of the proposed treatment or disposal methods.

Discussion: To have practical use, the disposal option must be available. For example, if all hazardous waste facilities that accept offsite wastes are closed or are not reasonably distributed, the practicality of an exemption to allow disposal at such sites is questionable. Since the receiving facility will not be licensed for radioactive materials, shipments to landfills or

hazardous waste facilities should not require identification as radioactive materials.

IV. Administrative Handling

Agency procedures for expeditious routine handling of petitions for rulemaking were initially published in 1982 in NUREG/BR-0053, "Regulations Handbook."¹ The procedures are contained in Part 11 of the Handbook and were most recently revised in September 1985. Because of resource limitations and other factors, these procedures have not been fully implemented. Petitions for rulemaking submitted in accordance with the Commission's policy statement and this staff implementation plan will be processed in full compliance with these procedures. These procedures coupled with agency policy to complete all rulemakings within 2 years will provide expeditious action on the petitions. In addition, the Handbook notes general scheduling advice that proposed rules to grant petitions should be published in 6-12 months after acceptance and publication for comment. Proposed rules will be published on a 6 month schedule to the extent permitted by resource limits, the nature and extent of public comments, and internal Control of Rulemaking procedures. Rulemakings involving power reactors must be reviewed by the Committee on Review of Generic Requirements prior to publication. Proposed rules involving reactors will therefore be published on a 7 month schedule to the extent permitted by resources, comments, and approval procedures. In both cases, every effort will be made to publish proposed rules no later than 12 months after noticing for public comment.

Although the procedures in Part 11 of NUREG/BR-0053 include fast track processing, the nature of the anticipated petitions do not fully comply with the decision criteria to follow this alternative.

Some of the key features of the handling procedures include the following steps for complete and fully supported petitions.

1. Petitioners may confer on procedural matters with the staff before filing a petition for rulemaking. Requests to confer on procedural matters should be addressed to: The Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Rules and Procedures Branch.

2. Petitions should be addressed to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. In keeping with 10 CFR 2.802(f), petitioners will be promptly informed if the petition meets the threshold requirements for a petition for rulemaking in 10 CFR 2802(c) and can be processed in accordance with this implementation plan. Ordinarily this determination will be made within 30 days after receipt of the petition.

3. Following this determination, the petition will be noticed in the Federal Register for a public comment period of at least 60 days.

4. The petitioner will be provided copies of all comments received, scheduling information, and periodic status reports.

The procedures in NUREG/BR-0053 also include the process for denial and withdrawal of petitions.

The Commission has an additional procedure in place which can reduce the time required to complete rulemaking actions. By means of this staff implementation plan, the Executive Director for Operations has been authorized

by the Commission to proceed with any "below regulatory concern" petition received that can be processed in accordance with the policy statement. Proposed rules will be issued by the Executive Director for Operations in accordance with his delegated authority in 10 CFR 1.40(d). The Executive Director for Operations will also issue the final rule if no significant adverse comments or new policy issues have been received on the proposed rule. The Executive Director would notify the Commission before issuing the proposed and final rules.

Footnotes:

1. Copies of NUREG/BR-0053, NUREG/BR-0058 and NUREG/CR-3585 may be purchased through the U.S. Government Printing Office by calling (202) 275-2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5185 Port Royal Road, Springfield, VA 22161. Copies are available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555.
2. ICRP Publication 46, "Radiation Protection Principles for the Disposal of Solid Radioactive Waste," adopted July 1985.
3. ICRP Publication 26, "Recommendations of the International Commission on Radiological Protection," adopted January 17, 1977. ICRP Publication 30, "Limits for Intake of Radionuclides by Workers," adopted July 1978.
4. Copies of the United Kingdom's document are available for inspection as enclosures to SECY-85-147A (relating to 10 CFR Part 20) dated July 25, 1985 in the Commission's Public Document Room, 1717 H Street NW, Washington, DC 20555. The United Kingdom documents are available for sale from: Her Majesty's Stationery Office, P.O. Box 569, London SE1 9NH, United Kingdom, as Advice document ASP-7 and a related technical report, "The Significance of Small Doses of Radiation to Members of the Public," NRPB-R175.
5. Copies of the Canadian document are available for inspection as an enclosure to SECY-85-147A (relating to 10 CFR Part 20) dated July 25, 1985 in the Commission's Public Document Room, 1717 H Street NW, Washington, DC 20555. The Canadian document was issued as Consultative Document C-85, "The Basis for Exempting the Disposal of Certain Radioactive Materials from Licensing" by the Atomic Energy Control Board, P.O. Box 1046, Ottawa, Ontario, Canada, KIP 5S9.
6. ICRP/85/G-03, "Statement from the 1985 Paris Meeting of the International Commission on Radiological Protect," 1985-04-26.

ENCLOSURE D

PART 11 - PROCEDURES FOR HANDLING PETITIONS FOR RULEMAKING

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11.1 Preliminary contacts and filing.

(a) The Administrative Procedure Act provides any interested person with the right to petition an agency for the issuance, amendment, or repeal of a rule (5 U.S.C. 553(e)). The Nuclear Regulatory Commission (NRC) implements this statute in regulations that establish the procedures by which any interested person may file a petition for rulemaking with the Commission (10 CFR 2.802).

(b) A prospective petitioner is encouraged to confer with the staff before filing a petition for rulemaking. A pre-filing conference may--

- (1) Resolve questions regarding applicable NRC regulations sought to be amended;
- (2) Clarify the procedures for filing a petition for rulemaking; or
- (3) Result in a meeting with appropriate NRC staff to discuss the issues involved in the petition.

(c) A request for information or assistance concerning a petition or a meeting with the staff should be addressed to: The Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Rules and Procedures Branch. A prospective petitioner may also telephone the Rules and Procedures Branch on 301-492-7086 or on the toll free number for inquiries concerning NRC regulations: 800-368-5642.

(d) A request for a meeting received by any other office, should be coordinated with the Director, Division of Rules and Records (DRR), or the Chief, Rules and Procedures Branch (RPB). All offices that would be affected by the prospective petitioner's suggested amendment to the regulations will be invited to attend the meeting. DRR will prepare a memorandum for the record summarizing the substance of the meeting. This memorandum will be included in the official file on the petition.

(e) A prospective petitioner may file the petition with the NRC by addressing it to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. If any other NRC employee receives a petition for rulemaking or a document which may qualify as a petition, the employee shall forward the document immediately to the Chief, Docketing and Service Branch, Office of the Secretary.

11.3 Preliminary processing and threshold determination.

(a) When the Office of the Secretary (SECY) receives a petition for rulemaking or a document which may qualify as a petition for rulemaking, it logs in the document, establishes docket control, and sends a copy of the document to DRR. DRR then determines whether or not the document meets the threshold requirements for a petition for rulemaking.

(b) As set out in 10 CFR 2.802(c), to meet the threshold requirements, a petition for rulemaking must --

(1) Set forth a general solution to the problem or present the substance or text of any proposed regulation or amendment or specify the regulation which is to be revoked or amended;

(2) State clearly and concisely the petitioner's grounds for and interest in the action requested; and

(3) Include a statement in support of the petition that sets forth the specific issues involved, the petitioner's views or arguments with respect to those issues, relevant technical, scientific, or other data involved that is reasonably available to the petitioner, and any other pertinent information necessary to support the action sought. In support of the petition, the petitioner should note any specific cases of which the petitioner is aware where the current rule is unduly burdensome, deficient, or needs to be strengthened.

(c) If the document meets the requirements for a petition for rulemaking, DRR will assign a docket number to the petition and forward a copy of the petition to the appropriate office. Within ten working days, DRR will forward a request for a decision from the staff office on whether the petition should be processed routinely or handled as a "fast-track" petition. A "fast-track" petition is initially published for comment in the Federal Register as a proposed rule in accordance with §2.802(e). DRR will enclose a draft notice of receipt of the petition with the "fast-track" request. If the staff office determines that the petition for rulemaking is not suitable for "fast-track" processing, the staff office is requested to comment or concur on the draft notice of receipt and return it to DRR for publication in the Federal Register.

11.5 Petitions not meeting threshold requirements.

(a) If a petition does not include sufficient information to meet the threshold requirements for a petition for rulemaking (see 11.3(b) of this handbook), the Executive Director for Operations (EDO) will make a determination that a petition is deficient. This determination, based upon the recommendation of the cognizant office, the Office of the Executive Legal Director (OELD), or DRR, should ordinarily be made within 30 days from the date of receipt of the petition by SECY. DRR prepares a memorandum to the EDO containing this recommendation. The memorandum includes a draft letter to the petitioner pointing out the aspects in which the petition is deficient.

(b) The petitioner is informed as to how the petition is deficient and is given an opportunity to submit additional information. If a petitioner does not correct the deficiency within 90 days from the date of notification by the EDO that the petition is incomplete, the petition may be returned to the petitioner without prejudice to the petitioner's right to file a new petition. When this occurs, DRR will draft the appropriate letter to the petitioner, obtain the concurrence of OELD and the cognizant office, and forward the letter to the EDO for signature.

(c) The Commissioners are placed on distribution for any letter to a petitioner which states that a petition is deficient or which returns a petition to a petitioner because it is incomplete.

11.7 Determining whether a petition is eligible for "fast-track" processing.

(a) Occasionally, NRC receives a petition for rulemaking that requests a minor amendment to the regulations that is obviously meritorious. In order to expedite the rulemaking process, these petitions for rulemaking may be published initially for public comment as a proposed rule. This "fast-track" procedure eliminates the usual step of publishing a notice of receipt of a petition for rulemaking and inviting public comment on the petition when the additional procedural step is unnecessary. "Fast-track" petitions are processed by the staff according to the procedures specified in this section and 11.9 of this handbook. The "fast-track" procedure may not be used for the expeditious denial of a petition for rulemaking.

(b) Following a determination that a petition for rulemaking meets the threshold requirements for a petition, DRR assigns the petition to the appropriate staff office to determine whether the petition is eligible for "fast-track" processing. The assigned staff office assigns a contact person to handle the petition. The contact person then makes the "fast-track" determination within 10 working days.

(c) The NRC may consider a petition eligible for "fast-track" processing if it --

(1) Proposes action granting or recognizing an exemption from requirements in 10 CFR Chapter I or granting relief from restrictions

while not imposing additional burdens upon or, increasing the risks to, the health and safety of any segment of industry or the public;

(2) Proposes action involving interpretive rules, rules of agency organization, procedure, or practice, and rules for the orderly conduct of Commission business;

(3) Proposes action involving an amendment to 10 CFR Chapter I that is corrective or of a minor or nonpolicy nature and that does not substantially modify existing regulations;

(4) Proposes action involving --

(i) A minor safety, safeguards, or environmental issue;

(ii) An increase in NRC efficiency; or

(iii) A reduction in the regulatory burden on licensees.

(5) Proposes action involving a request already under consideration in an ongoing rulemaking proceeding (Note however, that NRC consideration of a request already included in an ongoing rulemaking depends on the status of the rulemaking proceeding);

(6) Proposes other action that is clearly meritorious and will not adversely affect the rights of other licensees or persons.

(d) The NRC normally will not consider a petition eligible for "fast-track" processing if the proposed action will --

(1) Require the preparation of an Environmental Impact Statement;

(2) Impose new or increased reporting, application, or recordkeeping requirements subject to clearance by the Office of Management and Budget;

(3) Have a significant economic impact on a substantial number of small entities (see discussion of Regulatory Flexibility Act requirements in sections 3.19 and 5.19 of this handbook);

(4) Have a significant impact on NRC staff and resource commitments; or

(5) Result in denial of the petition for rulemaking.

11.9 Procedures: Fast track processing.

(a) If the contact person determines that the "fast-track" process is appropriate for a petition for rulemaking, the assigned office shall inform DRR of this decision. The assigned office begins processing the petition under "fast-track" procedures by developing a notice of proposed rulemaking that addresses the issues in the petition.

(b) Under "fast-track" procedures, the assigned office shall develop the proposed rule for transmittal to the EDO or the Commission for approval within 90 days after DRR assigns a docket number.

(c) The assigned office is responsible for implementing EDO or Commission action for a proposed rule (see NRC rulemaking process section 1.7 of this handbook).

11.11 Routine processing.

(a) If the contact person determines that the "fast-track" process is not appropriate for a petition for rulemaking, the assigned office shall inform DRR of this decision. The assigned office shall also concur or provide comment on the draft notice of receipt of petition for rulemaking prepared by DRR for Federal Register publication. The notice of receipt describes the contents of the petition and allows at least 60 days for public comment.

(b) The assigned office shall establish a schedule and target date for completion of staff action on the petition. The schedule and target date are meant to indicate the period from initial staff review to transmittal of the response to the petition to the Commission or to the EDO. The response would recommend granting the petition and publication of a proposed rule or denial of the petition.

(c) The staff should note that in approving SECY-77-526, "Procedures for Petitions," in November 1977, the Commission stated:

"Schedules for responding to specific petitions should be set individually, taking into account the priority and difficulty of the issues. However, the Commission believes that the time for response should seldom exceed 6 months for minor petitions or 12 months for major ones. When the response is rulemaking, the 6 and 12 month schedule limits can be interpreted as applying to the date of publication of the proposed rule in the Federal Register.

"On petitions of substantial policy significance, the staff should submit an information paper or present a briefing to the Commission, about three months after receipt of the petition, identifying issues and options, and any preliminary staff views."

11.13 Processing after publication for public comment.

(a) "Fast-track" petition (published as proposed rule). At the conclusion of the comment period specified in the proposed rule, the contact person in the assigned office sends a letter to the petitioner enclosing copies of any comments that were received in response to the publication of the proposed rule in the Federal Register. The letter also states the initial target date for completion of staff review of the comments received and development of a final rule. The assigned office is responsible for notifying the petitioner of any subsequent changes in the target date or of the contact person to whom the petition is assigned.

(b) Routine petition (notice of receipt published for comment).

(1) At the conclusion of the comment period specified in the Federal Register notice of receipt of petition (normally 60 days), DRR sends a letter to the petitioner enclosing copies of any comments that have been received concerning the petition. The letter will also state the initial target date for completion of staff review of the petition and the name and telephone number of the contact person responsible for the petition. The assigned office is responsible for notifying the petitioner of any subsequent changes in the target date or of the contact person to whom the petition is assigned.

(2) A petition for rulemaking may remain active for a considerable time following publication for comment in the Federal Register. The contact person should contact the petitioner every three months with a status report on the petition. A petitioner may, over a period of time, change positions on a particular issue or determine that an initial concern has been satisfied by actions occurring after the petition was filed with the Commission. Thus, periodic contact with petitioners may result in withdrawal of part or all of a petition by the petitioner. Routine correspondence to the petitioner may be signed by an appropriate official in the responsible office. The assigned office shall send copies of correspondence sent to a petitioner to DRR and to the official docket file maintained by the Office of the Secretary.

(3) If an assigned office believes that action on the petition has been completed through administrative measures other than publication of a Federal Register notice, it should consult with DRR and OELD for a final determination. Following a review of the staff actions taken during the processing of the petition, DRR will notify the assigned office if all necessary action on the petition has been completed and describe how the proceeding is to be terminated.

(c) Assistance during processing.

(1) RPB is available to assist with the preparation and review of Federal Register notices required during the processing of petitions for rulemaking.

(2) OELD is available to provide legal advice to the staff during the processing of petitions for rulemaking.

(d) Staff response to significant actions. The contact person for a petition for rulemaking is responsible for notifying DRR, and where appropriate, OELD, of any significant action or change that occurs during the processing of the petition. Negotiations or understandings reached with a petitioner can materially affect the handling and disposition of a petition. Coordination of staff plans with DRR is necessary for actions such as the potential or actual withdrawal of a petition to enable DRR to keep the Commission informed of the status of petitions for rulemaking by means of the quarterly Regulatory Agenda.

11.15 Completing action on a petition.

Action on a petition for rulemaking is considered complete when the petition, or each of its parts, has been withdrawn, denied, or granted.

(a) Withdrawal of petition for rulemaking.

(1) Only the petitioner may withdraw a petition or part of a petition. If the withdrawal is made by telephone, the contact person should request that the petitioner submit an official letter of withdrawal to provide a record of the request. If the petitioner does not submit a written request for withdrawal, the contact person should make a record of the conversation noting the date, name, and position of the person claiming to represent the petitioner. The contact person should send a follow-up letter to the petitioner that confirms the withdrawal.

(2) If the petition is withdrawn, DRR, after consultation with the contact person, prepares a Federal Register notice that informs the public of the action. The Federal Register notice is circulated to the assigned office and OELD for concurrence before it is submitted to the EDO for signature.

(b) Denial of petition for rulemaking.

(1) A petition or part of a petition is denied through the publication of a Federal Register notice and official written notification to the petitioner. If part of a petition is denied, the assigned office is responsible for processing the remaining parts of the petition until each remaining part has been withdrawn, denied, or granted.

(2) The assigned office prepares the following documents in the case of a denial of a petition:

(i) A memo to the EDO or a Commission paper.

(ii) A Federal Register notice of denial (to be signed by either the EDO or the Secretary of the Commission). The delegation of rulemaking authority to the EDO set out in 10 CFR 1.40 provides the criteria for determining whether the EDO or the Secretary is to sign a denial of a petition for rulemaking.

(iii) A letter to the petitioner to be sent to the petitioner prior to publication of the notice of denial in the Federal Register (to be signed by either the Executive Director for Operations or the Secretary of the Commission).

(iv) Congressional letters (to be signed by the Director of the responsible office).

(v) A draft public announcement, if appropriate, and;

(vi) An analysis and response to comments received on the petition.

(3) In preparing the Federal Register notice of denial of a petition, the assigned office shall ensure that each of the issues raised by the petitioner has been addressed. The NRC's response to each of the issues raised and the reasoning presented for denying the petition must be presented in a manner and with sufficient detail to indicate that the NRC has adequately considered each of the petitioner's requests. Each Federal Register notice of denial of a petition must include --

(i) A complete summary of each of the issues raised in the petition;

- (ii) A summary and analysis of any public comment received;
- (iii) NRC's response to each of the issues raised; and
- (iv) NRC's reasons for denying the petition.

(4) The EDO is authorized to deny petitions for rulemaking concerning issues of a minor or nonpolicy nature where the grounds for denial do not substantially modify existing precedent (10 CFR 1.40(o)). Petitions that address major or policy issues require action by the Commission.

(5) When preparing a Federal Register notice of denial of a petition, the following format items are omitted from the Commission Paper and Federal Register notice --

- (i) The standard statements concerning the regulatory analysis, Paperwork Reduction Act, Regulatory Flexibility Act, and National Environmental Policy Act;

- (ii) The authority citation; and

- (iii) The list of subject index terms.

See 15.10 of this handbook for a sample denial of a petition for rulemaking.

(c) Granting a petition for rulemaking. A petition or part of a petition is granted through issuance of a final rule that responds to the petitioner's request or other Commission action acceptable to the petitioner. Other acceptable actions may include the issuance of a Regulatory Guide, Policy Statement, or legal interpretation.

(d) Incorporation of petition for rulemaking. When similar or related issues are involved, it is frequently possible to incorporate a petition or part of a petition into an ongoing rulemaking. This can be done provided that

three factors are taken into consideration. First, incorporation of the petition or part of the petition into an ongoing rulemaking may delay the completion of the rulemaking to an extent that is undesirable given the Commission's established priorities. Second, incorporation of the petition or part of the petition into an ongoing rulemaking could delay the resolution of the petitioner's request to the point that the delay in reaching a final decision on the merits of the petition amounts to a denial of the petition. Finally, the action to incorporate the petition should occur at a stage in the rulemaking that permits adequate consideration of the issue involved. If any of these factors exist, the petition or the part of a petition under review should be treated separately.

(e) Points to remember.

(1) Incorporation of a petition or part of a petition into an ongoing rulemaking does not cause the petition or its parts to lose the identity of a discrete agency action item that must eventually be withdrawn, denied, or granted. Incorporation, by itself, does not "grant" or "complete" action on a petition for rulemaking. Also, the intermediate procedural or administrative steps and milestones used by NRC offices to control the processing of petitions for rulemaking (e.g., review, analysis, reports, studies, position papers, issuance of NUREGs series publications) do not "grant", "deny", or "complete" action on a petition or its parts. These steps are satisfied only as noted in paragraphs (a), (b), and (c) of this section.

(2) SECY maintains the official docket file on a petition for rulemaking. The assigned office should send a copy of all petition-related documents for inclusion in the official docket. The assigned office should also send a copy of petition-related documents to DRR so that DRR can monitor the current status of each ongoing action.

(3) A file of petitions for rulemaking that have been filed with the NRC is maintained in RPB, DRR. Documents concerning current petitions and petitions that have been completed through EDO or Commission action are published in the NRC Rules and Regulations. Questions concerning the status of any petition for rulemaking may be directed to the RPB, ext. 27086.

ENCLOSURE E

ENCLOSURE E

Dear Mr. Chairman:

The U.S. Nuclear Regulatory Commission (NRC) is publishing a policy statement on radioactive waste below regulatory concern.

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (Public Law 99-240) requires that NRC "establish standards and procedures, pursuant to existing authority, and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation by the Commission due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern." The enclosed policy statement and attached staff implementation plan are in partial response to those requirements. We are also addressing our technical capability to process petitions.

The enclosed notice is being sent to the Office of the Federal Register for publication. A copy of a public announcement to be released by the NRC on this matter is also enclosed.

Sincerely,

John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Federal Register Notice
2. Public Announcement