

June 10, 2005

The Honorable Patty Murray
United States Senate
Washington, D.C. 20510

Dear Senator Murray:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 13, 2005, in which you requested additional information on the disposal of low-activity radioactive waste and the conditions under which this waste may be disposed of at a facility not licensed by the NRC, such as a Resource Conservation and Recovery Act (RCRA) hazardous waste disposal facility. In particular, you were concerned about an application by the Connecticut Yankee Atomic Power Company (CYAPCO) to dispose of certain low-activity radioactive waste at an RCRA facility in Idaho and whether an NRC decision on this application might be interpreted as preempting the NRC rulemaking process on disposition of solid materials.

The rulemaking referred to in your letter proposed various disposition paths for solid material with no or very small amounts of radioactivity from licensed operations. The Commission recently completed its review of the staff's suggested approach for disposition of solid material and decided to defer the rulemaking for the time being. The rulemaking package, including a proposed rule, a draft generic environmental impact statement, and the regulatory analysis, is available on the NRC web site, <http://www.nrc.gov/materials.html> (under Key Topics, link to Controlling the Disposition of Solid Materials, and then to Current Events).

In a separate action, CYAPCO requested alternate disposal of building debris from site decommissioning under the existing provisions of Title 10 of the Code of Federal Regulations (10 CFR) Section 20.2002. The NRC approved the CYAPCO alternate disposal request on April 19, 2005. The current provisions for radioactive waste disposal in 10 CFR 20.2002 and the proposed rulemaking on controlling the disposition of solid materials cover different parts of the regulatory spectrum. The current 10 CFR 20.2002 requirements address alternative procedures for disposal on a case-by-case basis for either on-site or off-site disposal. The proposed rulemaking would have addressed matters such as release and reuse of solid materials on a generic basis.

You also asked specifically about the CYAPCO application for disposal of radioactive demolition debris, which is a separate matter from the ongoing rulemaking. The CYAPCO, an NRC licensee, requested approval to dispose of demolition debris from decommissioning the Haddam Neck Plant at the US Ecology site in Idaho. The CYAPCO request was submitted on September 16, 2004, pursuant to 10 CFR, Section 20.2002, "Method of Obtaining Approval of Proposed Disposal Procedures." Section 20.2002 states that a "...licensee or applicant for a license may apply to the Commission for approval of proposed procedures, not otherwise authorized in the regulations in this chapter, to dispose of licensed material generated in the licensee's activities." This regulation is applicable to individual licensee requests and entails both a safety and an environmental evaluation for the unique and specific proposed disposal. Typically, these kinds of regulatory actions do not require the same public process as the notice

and comments process for rulemaking, which can include public meetings. Accordingly, the NRC staff does not hold public hearings for 10 CFR, Section 20.2002 authorization, including this CYAPCO request.

The CYAPCO request is not a precedent for disposal of radioactive materials at RCRA or other non-NRC-licensed facilities. The request was submitted under 10 CFR 20.2002, and other such requests have been made by licensees and granted by the NRC in the past. If a facility is State regulated, the disposal must comply not only with 10 CFR 20.2002 but also with State requirements. The CYAPCO request provides information to demonstrate that the material is acceptable for burial at a Subtitle C, RCRA hazardous waste facility in accordance with 10 CFR 20.2002. The RCRA facility is regulated by the State of Idaho Department of Environmental Quality, and any disposal must comply with State of Idaho requirements and be authorized by the State.

The Commission recognizes your interest in this matter and appreciates your comments.

Sincerely,

/RA/

Nils J. Diaz

Identical letter sent to:

The Honorable Patty Murray
United States Senate
Washington, D.C. 20510

The Honorable Norm Dicks
United States House of Representatives
Washington, D.C. 20515