

June 29, 2005

Mr. Gerald Pollet, J.D.  
Executive Director  
Heart of America Northwest  
1314 NE 56<sup>th</sup> Street #100  
Seattle, WA 98105

Dear Mr. Pollet:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 18, 2005, in which you expressed concerns about an application by Connecticut Yankee Atomic Power Company (CYAPCO), to NRC, on the disposal of radioactive demolition debris from the decommissioning of CYAPCO's Haddam Neck plant. You requested that NRC consider the CYAPCO application as part of its rulemaking governing disposition of solid material, that NRC deny CYAPCO's request and that NRC complete a programmatic environmental impact statement.

In your letter you referred to the ongoing NRC rulemaking on controlling the disposition of solid materials. The Commission disapproved publication of the proposed rule at this time in the Staff Requirements Memorandum of June 1, 2005, based on its position that the agency is currently faced with several high priority and complex tasks, that the current case-by-case approach is fully protective of public health and safety, and that the immediate need for this rule has changed due to the shift in timing for reactor decommissioning. As such, the Commission is deferring this rulemaking for the time being, including completion of the draft generic environmental impact statement (NUREG-1812) associated with that action.

CYAPCO requested alternate disposal of building debris from site decommissioning under the existing provisions of Part 10 of the Code of Federal Regulations (10 CFR) Section 20.2002. 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." Section 20.2002 is a regulation of longstanding, practical use and has been applied many times over the years. Requests for a 20.2002 authorization are case-specific and are separate from the draft rule on controlling the disposition of solid materials. In reviewing CYAPCO's request, the NRC staff ensured that any potential dose from the disposal would be maintained within the dose limits set forth in Part 20, "Standards for Protection against Radiation," and be as low as is reasonably achievable. The staff also evaluated the proposal to ensure it would not cause a significant environmental impact.

In your letter of April 18, 2005, you contend that the NRC cannot grant the CYAPCO's 20.2002 authorization request and exemption without a final programmatic environmental impact statement under the National Environmental Policy Act (NEPA). Specifically, you stated that "the NRC may not 'piecemeal' this decision and allow individual disposal decisions to proceed when they are part and parcel of a larger programmatic decision requiring a programmatic EIS." Section 20.2002 is applicable to individual licensee requests and includes an environmental evaluation for the unique and specific proposed disposal. The Commission

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takes its NEPA responsibilities very seriously and believes that its environmental reviews for 10 CFR 20.2002 reviews are appropriate and comply with both the requirements and spirit of NEPA.

Based on the state's comments and further NRC review, the EA was made final and was issued on April 18, 2005, prior to receipt of your letter. Therefore, we have not addressed each of your specific comments related to the draft EA in this response. Based on the safety review and the results of the environmental evaluation, the licensee's request was approved on April 19, 2005. The NRC recognizes your interest in this matter and appreciates your comments.

Sincerely,

**/RA/**

Daniel M. Gillen, Deputy Director  
Division of Waste Management  
and Environmental Protection  
Office of Nuclear Material Safety  
and Safeguards

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**ML050800134**

\*See previous concurrence

<b>OFC</b>	DWMEP*	DWMEP	OGC	DWMEP
<b>NAME</b>	TSmith*	CCraig*	STreby*	DGillen
<b>DATE</b>	6/2/05	6/21/05	6/17/05	6/28/05

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