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ACTION OFFICE: OIP

AUTHOR: REP Joe Barton
AFFILIATION: CONG.
ADDRESSEE: Dale Klein
SUBJECT: NRC's regulatory criteria and decision making process for import license applications for volumes of radioactive wastes imported ~~from~~ ^{FROM} foreign countries for disposal here in the U.S.

ACTION: Signature of Chairman
DISTRIBUTION: RF, OCA to Ack

LETTER DATE: 11/19/2007

ACKNOWLEDGED: No

SPECIAL HANDLING: Comr. Correspondence

NOTES: Response requested by November 30, 2007

FILE LOCATION: ADAMS

DATE DUE:

~~11/26/2007~~

DATE SIGNED:

~~11/27/2007~~

Per Billie Champ 11/20 email to Jane

12/14/2007

Per Billie 11/26 email to Jane

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U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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November 19, 2007

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The Honorable Dale Klein
Chairman
Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852-2738

Dear Chairman Klein:

As the regulatory agency responsible for overseeing the storage and disposal of commercial low-level radioactive wastes, the Nuclear Regulatory Commission (NRC) has reviewed several applications for the import and export of radioactive wastes. We are interested in learning more about NRC's regulatory criteria and decision making process for import license applications for large volumes of radioactive wastes imported from foreign countries for disposal here in the United States.

Our interest in the Commission's export and import regulations is prompted by a letter and two license applications from EnergySolutions to the Commission dated September 14, 2007, describing the company's plan to import a large volume of radioactive waste from Italy. EnergySolutions intends to import 20,000 tons of radioactive waste from various ports in Italy to the ports of Charleston and New Orleans; transport the wastes by truck, barge or rail to its processing facilities in Tennessee; and then transport the wastes for disposal at its licensed low-level radioactive waste disposal facility in Clive, Utah. EnergySolutions estimates the first shipment of these radioactive wastes would occur in the spring of 2008, and continue over at least a five-year period. It is our understanding that this is the first time NRC has received a license application for the importation and domestic disposal of such a large quantity of radioactive wastes.

According to the letter and attached license applications, EnergySolutions asserts that the radioactive wastes will come from various locations within Italy, but the exact origin of the wastes is "unknown", and the "generators of these materials are not fully known." While the exact sources of the radioactive wastes are unknown, the wastes will be

limited to "reactors, fuel cycle facilities, research facilities, and material licensees or facilities equivalent to U.S. Superfund sites."

The radioactive composition of the imported wastes "will include source material, byproduct material, and special nuclear material." However, according to the license application, the exact type and composition of the radioactive waste cannot be evaluated before it embarks from Italy. Consequently, the radioactive composition of some of the waste arriving at the ports of Charleston and New Orleans will likely exceed NRC's threshold limits for low-level waste disposal, and will not be suitable for storage in the company's Clive, Utah disposal facility. To address this problem, the company has included a second application for a specific NRC export license to export back to Italy those radioactive wastes that are too dangerous to be transported to or accepted at its Clive, Utah disposal facility. According to the application, "it is not possible to estimate the quantities, volume, and activity of the materials that will need to be exported."

Given the apparent unanswered technical questions regarding this proposal, we are interested in how NRC evaluates licenses for import and export of radioactive wastes:

- (1) Does NRC allow radioactive wastes to embark from a foreign country bound for the United States without a clear understanding of its exact type and composition? If so, what were the instances where this occurred?
- (2) Does NRC grant an import license to applicants who cannot provide details regarding the exact origin of the waste or exactly who generated the waste? If so, what were the instances where this occurred?
- (3) Has NRC ever granted an import license with the understanding that some of the wastes will be so dangerous they must be exported back to the country of origin? If so, what were the instances where this occurred?
- (4) Does a State identified by an applicant as a host for the storage or processing of the imported radioactive wastes have any authority to object? Has this ever occurred? If so, what were the circumstances?
- (5) If the importation of radioactive wastes is inconsistent with a regional low-level radioactive waste interstate compact, can the regional commission established by the compact object?
- (6) If U.S. Customs and Border Protection determines a sea cargo container laden with radioactive wastes needs to be inspected, are port security officers trained and prepared to handle the kind of radioactive wastes described in the EnergySolutions applications?

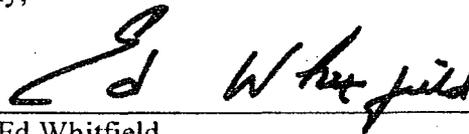
- (7) When the NRC established its criteria for evaluating import licenses, did the Commission anticipate commercial applicants would seek to import large volumes of radioactive wastes for domestic disposal?
- (8) If radioactive waste is imported without a clear understanding of its type and composition, how would NRC ensure that domestic transport of such waste would not be inimical to public health and safety?
- (9) When NRC evaluates an application to import large quantities of radioactive waste, does it consider the existing capacity of domestic low-level waste facilities and the future disposal needs of domestic generators?

Thank you for your attention to this matter. Please respond to these questions in writing by November 30, 2007. If you have any questions regarding this request, please have a member of your staff contact Mr. Dwight Cates of the Minority Committee staff at (202) 225-3641.

Sincerely,



Joe Barton
Ranking Member
Committee on Energy and Commerce



Ed Whitfield
Ranking Member
Subcommittee on Oversight and Investigations

cc: The Honorable John D. Dingell, Chairman
Committee on Energy and Commerce
The Honorable Bart Stupak, Chairman
Subcommittee on Oversight and Investigations