



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

November 15, 1990

The Honorable Lloyd Bentsen  
United States Senator  
961 Federal Building  
Austin, Texas 78701

Dear Senator Bentsen:

I am responding to your October 26, 1990, letter in which you asked us to address the concerns of your constituent, Mr. Jeff Smith, who expressed his disagreement with a Nuclear Regulatory Commission (NRC) policy which could be used to classify certain low-level radioactive waste (LLW) as being below regulatory concern or BRC.

On July 3, 1990, the Commission issued a Below Regulatory Concern Policy Statement. I have enclosed a copy of this statement together with a companion explanatory booklet for your use in responding to Mr. Smith. The statement identifies the principles and criteria that will govern Commission decisions to exempt certain radioactive material from the full scope of regulatory controls. Thus, the policy could apply, but would not be limited to potential BRC waste determinations. I would emphasize that the policy is not self-executing and does not, by itself, deregulate any LLW. Any specific exemption decisions would be accomplished through rulemaking or licensing actions during which opportunity for public comment would be provided in those situations where generic exemption provisions have not already been established.

The policy can be considered an outgrowth of the concepts articulated in the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Pub. L. 99-240). That Act (i.e., Section 10) directed the NRC to "...establish standards and procedures...and develop the technical capability for considering and acting upon petitions to exempt specific radioactive waste streams from regulation...due to the presence of radionuclides in such waste streams in sufficiently low concentrations or quantities as to be below regulatory concern." In response to the legislation, NRC developed and published in 1986 a Statement of Policy and Procedures which outlines the criteria for considering such petitions. Our recently issued broad policy statement, which has implications beyond waste disposals (e.g., applicable to decommissioning decisions involving the release of residually-contaminated lands or structures), reflects much of the basic radiation protection approach described in this earlier Commission policy. The Commission, in both actions, has acted in the belief that the nation's best interests are served by policies that establish a consistent

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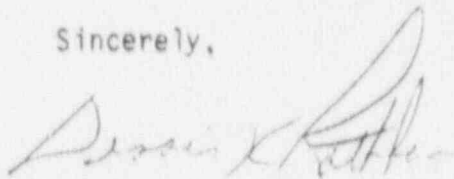
risk framework within which exemption decisions can be made with assurance that human health and the environment are protected. In this regard, we believe our actions are consistent with those of other Federal agencies; e.g., the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA), who have formulated or are attempting to formulate similar policies for the hazardous materials they regulate.

In responding to the specific concern on dispersal of BRC radioactive material in community landfill sites, I would point out that natural radioactive material is pervasive in our environment, including the radioactivity which exists in our own bodies. As a result, very low levels of radioactivity from both natural and man-made sources are currently entering landfills. Thus, the real issue involved in radioactive material disposals is, "What level of radioactivity can we allow to be disposed of at specifically defined non-licensed disposal facilities without compromising public health and safety or the environment"? On this point, Section 10 of the Act focuses on the concentrations or quantities of radionuclides which could be disposed of at other than licensed low-level radioactive waste sites. It is this question, among others, to which the Commission's BRC policy is directed.

Mr. Smith also asserts that a significant portion of the waste material from nuclear power plants may be reclassified. This statement may originate from a view expressed by the nuclear power industry and the EPA that 30 percent of the low-level radioactive waste generated by volume (at nuclear power facilities) may be considered for BRC waste classification. The nuclear power industry has estimated that this volume of material would contain approximately 0.01 percent of the radioactivity contained in all their low-level radioactive waste. There are other industries such as hospitals that also produce low-level waste.

In closing, I want to assure you that the Commission takes its mandate to protect the health and safety of the public very seriously. I, therefore, hope the views expressed and the enclosed information will prove useful in responsibly expanding the dialogue on this controversial and technically complex issue.

Sincerely,



Dennis K. Rathbun, Director  
Congressional Affairs  
Office of Governmental and  
Public Affairs

Enclosures:  
As Stated