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OFFICE OF
REGULATORY
ADJUDICATIONS

December 3, 1999

NRC Chairman Richard Meserve
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attention: NRC Rulemaking and Adjudications Staff

RE: Scoping of NRC proposed rule for RADIOACTIVE "RELEASE" and "RECYCLING" into the marketplace, regular landfills, incinerators, etc. 64 FR 35090, 6/30/99

Dear Chairman Meserve:

I am writing you on behalf of Environmental Advocates, a New York State environmental advocacy and watchdog group with thousands of supporters and over 130 organizational members. We would like to register our extreme concern about any current or proposed rules that would permit the introduction of radioactive materials into consumer products or the industrial marketplace. Such strategies would pose unacceptable risks and obscure the true cost of nuclear reactors. Given an adequate amount of time to consider this, we are sure a fully informed public will reject all such schemes for dealing with the legacy of atomic energy and weapons production.

For this reason we are requesting that the Nuclear Regulatory Commission extend to at least September 2000 the comment period on rules changes for releasing radioactive waste. This issue is too important to be acted upon in haste and all possible care should be taken to assure the public is made fully aware of the dangers involved, and that all voices are heard. Americans have spoken repeatedly and clearly before on this issue, and their right to do so again should remain uncompromised by any and all pressures brought on by changes in circumstance.

- Our position remains that waste generated by nuclear power plants and weapons facilities should not be "released," "cleared," deregulated, exempted, or generally licensed. We know of no factors that would qualify radioactive waste to be designated: "deminimis," "unimportant," "trivial" or BRC (below regulatory concern). No creative means, therefore, either direct or indirect, should be employed to allow such waste to escape their facilities of origin.

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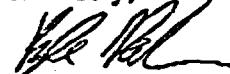
- Accordingly, all current methods of releasing radioactive wastes from commercial licensees and weapons facilities must immediately cease. No future radioactive releases should be permitted, and a full accounting and recapture of that which has already been released should commence.
- Using radioactive wastes in consumer products poses unnecessary, avoidable risks. When informed of these risks, consumers, waste producers, and raw materials industries alike, rightfully reject any processes that create such risks.
- In any given situation, computer models cannot credibly calculate, nor accurately predict, any or ALL of the potential radioactive doses that could be released over time. Risk projections thus generated, therefore, deemed "acceptable" or "reasonable" are meaningless. Furthermore, monitoring for specific types and forms of radioactivity is complex and therefore very expensive to perform. Experience has taught us that nuclear generators cannot be trusted to monitor their own releases, and even in the best of systems, hot spots inevitably sneak through.
- No matter what levels the NRC chooses to set for allowable radiation risk, dose or concentration, they will be impossible to measure, verify and enforce. Given the current volatility in the nuclear industry, determining liability for violations and exceedences is increasingly difficult and would be more so with the proposed new rules.
- Naturally occurring background radiation cannot be avoided (except in some instances for example, reducing radon in homes), but its presence in no way justifies additional, unnecessary, involuntary radiation exposures. Nor does it justify shifting the economic liability from the generators of radioactive wastes and materials to the economic and health liability of the recycling industries, the public and the environment.
- Metal and recycling industries, their management and the unions, have clearly articulated "zero tolerance" policies for the legalization of radioactive releases. They have further demonstrated their commitment to worker safety in this area through investment in detection equipment. We fully support their position and appreciate their efforts in holding the line against the radioactive threat to the public. They should not have to be our de-facto protectors. The NRC, DOE and EPA must act to prevent the dissemination of radioactive wastes into recycled materials as well as other commercial applications. The problems experienced by the steel recycling industry should serve as a cautionary tale. There, the clean up of "generally-licensed sealed sources" cost tens of millions of dollars.
- The fact that radioactive waste is already getting out should not be used to justify increasing regulatory tolerance. The NRC, EPA and DOE should be focusing their attention and resources on correcting past mistakes and preventing future ones, not on creating new problems. The fact that other countries are releasing radioactive materials into the marketplace is no rationale for us to join in, or endorse such reckless behavior. Rather, the United States should take the lead in preventing contamination of the international marketplace. We best protect our trading partners and ourselves by refusing to facilitate international radioactive commerce.

The fact that it is difficult and expensive to monitor and detect radiation does not in any way justify releasing radiation into the environment. Common Sense dictates that we should be preventing such release, which would render unnecessary expensive contamination, clean up. The nuclear industry and regulators should fully inventory all reactor and weapons sites so that all radioactive wastes and contaminated materials can be accurately identified and isolated.

- It seems to us inconsistent with the NRC's mission to even consider legalizing radioactive wastes being "recycled" into the marketplace. Particularly puzzling is the NRC Staff Requirements Memo, which indicates that a standard must allow "releases" to take place and that all radioactive materials will be deemed eligible for "clearance." This means that the NRC is not seriously examining all of the options available, such as non-release - which would truly serve the agency's public protection mandate Alternatives are being ignored National Environmental Policy Act (NEPA) requires all options to be considered.
- Furthermore, the NRC is relying on a private contractor -- Science Applications International Corporation (SAIC) -- prepare the technical prospectus for the proposed rules. SAIC's other nuclear industry contracts and relationships disqualify them for such an assignment. We ask that the NRC disclose all relevant financial interests of their contractor. Such disclosure will reveal that SAIC has been simultaneously working with or for other corporations with substantial economic interests in the outcome of this rulemaking In particular, we cite the case of their relationship with British Nuclear Fuels, Ltd. (BNFL) - since mid-1996, SAIC has been the teaming partner with BNFL in a quarter billion dollar DOE contract for recycling unprecedented amounts of contaminated radioactive metallic waste from the Oak Ridge TN uranium enrichment buildings. This blatant conflict of interest could well call into question the propriety and legality of the entire NRC process.
- The NRC is required to adhere to the principles and conditions of NEPA in establishing the proposed radioactive "release" rule. To do so fully, we strongly feel an extension of the public comment period is required.

In conclusion, we call on the NRC to serve the interests of the public instead of the nuclear industry by: 1) prohibiting the release of radioactive materials into commerce, landfills and incinerators and 2) identifying, tracking and recapturing the radioactive waste that has already been released from nuclear power and weapons facilities. Giving the public adequate information and at least 8 more months to comment is the first step towards acquiring this policy.

Sincerely,



Kyle Rabin
Environmental Advocates
Albany, NY