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From: <RickuDana@aol.com>  
To: <secy@nrc.gov>  
Date: Thu, Jun 19, 2003 10:42 AM  
Subject: Comments on Rulemaking related to Controlling Disposition of Solid Materials

Enclosed please find the comments of the Government Accountability Project regarding the rulemaking related to Controlling the Disposition of Solid Materials. These are in a word or rich text file format.

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USNRC

June 19, 2003 (11:32AM)

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June 18, 2003

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555  
Att: Rulemaking and Adjudication Staff

**RE: Controlling the Disposition of Radiologically Contaminated Solid Materials**

Dear NRC:

The Government Accountability Project (GAP) provides the following comments on the NRC's rulemaking "to evaluate alternatives for controlling the disposition of solid materials with no, or very small amounts of radioactivity resulting from licensed operations." GAP advocates on behalf of government and private sector whistleblowers, and has a program which provides oversight of health, safety and security within the Department of Energy's nuclear weapons complex.

GAP is aware that, pursuant to a Secretarial Memorandum (July 13, 2000), DOE put in place a moratorium on release of metals with detectable levels of radiation. Moreover, DOE is currently undertaking a PEIS on an agency wide policy to address the release of radioactively contaminated materials. DOE has identified several hundred thousand tons of surface and volumetrically contaminated materials for resale into scrap recycling markets; however, as a result of objections from the metals industry, labor unions and the public health community, DOE is presently focused on reuse alternatives that are limited to applications within DOE licensed facilities where the contaminated metals cannot be subsequently reused or come into contact with the public. For example, DOE has designated volumetrically contaminated nickel for use in the high level waste repository program.

Notwithstanding these approaches, DOE has also indicated that it plans to follow NRC policy on the release of radioactively contaminated metals and solid materials. DOE and its contractors can readily accomplish this by contracting for the recycling services of NRC/AS licensees to process metals or other solids and achieve this result. Our comments are mindful that NRC's rulemaking will

establish precedents that will ultimately impact far more than materials in the NRC and Agreement State (AS) licensed facilities (such as reactors), even though the consequences for the DOE are not explicitly spelled out in this rulemaking.

We support the following approaches to the reuse of radiologically contaminated materials.

- 1) No free release into unrestricted commerce for any radiologically contaminated materials. This includes surface and volumetrically contaminated materials. Tools can be reused in NRC/AS facilities only, and can be removed for re-use after 100% decontamination. Conditional re-use opens the door for subsequent (secondary, tertiary) re-use. Solid materials with residual contamination should be treated as low level radioactive waste and disposed of under option #5 in the NRC Notice of Rulemaking.
- 2) Free release is not practicable, damages the economics of metals manufacturers, imposes costs for screening, poses avoidable health risks, and damages the credibility of recycled metals.
- 3) The economic benefits to a few large licensees in salvaging a relatively small amount of metal (compared to the size of the scrap market) is not justified in equivalent societal and socio economic costs. The same applies to concrete.
- 4) We do not support a release policy that relies upon dose based standards. Currently, free release at a dose based level requires verification and believable risk assessments. To be credible, a large percentage of the released materials must be sampled in order to have high degree of confidence in the levels of residual radioactivity in released materials. It is economically impracticable to conduct an adequate sample of volumetric contamination. Validation of the decontamination process has proven to be fraught with flaws in the DOE Oak Ridge (BNFL Project). The DOE Inspector General found that even after BNFL monitored putatively decontaminated metals, the independent verification team (which was hired by DOE) failed to catch radioactively contaminated materials. The public has little or no confidence in the verification processes, because these processes are flawed. Errors in validation cannot be remedied absent a recall, and the absence of a manifesting, labeling and tracking system for these materials makes the notion of a credible recall impossible.
- 5) Further, dose based models open the door to "justification creep" as licensees manipulate dose based releases of materials based on the variables and assumptions that are loaded into risk assessments. As

former EPA Administration William Reilly noted: "risk assessments are like prisoners of war, if you torture them long enough they will tell you whatever you want to hear." Further, NRC's risk assessment on solid materials releases (NUREG-1640) is tainted by conflict of interest. SAIC, the author of the NUREG report, was terminated by NRC from its work on this project due to its conflict of interest on a similar DOE project involving recycling radioactive metals (BNFL-Oak Ridge Project).

- 6) Restricted end use--Slightly contaminated metal may be re-used only for use in a radiological area of a DOE- or NRC-licensed facility, and only if such metals could not be reintroduced into unrestricted commerce. Examples of possible restricted end uses of slightly radioactively contaminated metals include: contaminated scrap steel for making casks to store spent nuclear fuel; contaminated lead for reactor shielding blocks; and contaminated stainless steel for making nuclear waste/mixed waste storage drums. However, in no case should the restricted end use allow for the potential for such materials to be used, processed, transported or sold into unrestricted commerce. This limits the universe of re-use, but assures none can "leak" into commerce.
- 7) Labeling is needed for restricted end uses (to protect workers who may be exposed to radiation through machining, welding, grinding, or surface monitoring, etc.)
- 8) Prohibitions on releases into commerce must be imposed on Agreement State programs.

Please feel free to contact us if you have any additional questions.

Sincerely,

Richard Miller  
Policy Analyst