

June 30, 2003

July 1, 2003 (7:48AM)

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attention: Rulemaking and Adjudications Staff

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

1773

Re: Rulemaking on Controlling the Disposition of Solid Materials: Scoping Process for Environmental Issues and Notice of Workshop.

The Boeing Company ("Boeing") submits the following comments in response to the Nuclear Regulatory Commission (NRC)'s request for comments on its "Proposed Rulemaking on Controlling the Disposition of Solid Materials: Scoping Process for Environmental Issues and Notice of Workshop," published in the Federal Register on February 28, 2003 (68 Fed.Reg. 9595) (hereinafter referred to as "the Proposed Rule"). Boeing manufactures commercial and military aircraft, helicopters, missiles, rockets, spacecraft and related components and equipment. Our company currently employs approximately 160,500 workers at 70 facilities in 27 states.

Boeing appreciates the NRC's willingness to consider stakeholder input into various alternatives for controlling the disposition of solid materials with little or no radioactivity resulting from licensed operations. Depending on the alternative(s) chosen by the NRC, this proposed rule could have significant impact on Boeing operations throughout the United States.

Boeing believes that any disposition alternative must be both protective of public health and safety and be economical. In that regard, Boeing believes that the final rule must be consistent with the criteria set forth in Section 3.1 of the American National Standards Institute (ANSI) Standard ANSI/HPS N13.12-1999, "Surface and Volume Radioactivity Standards for Clearance." This ANSI Standard sets a primary dose criterion based on objective science that protect public health without imposing unnecessary regulatory burdens.

Specifically, Boeing supports a disposal standard based on Alternative 2, as modified to include the following language from Section 3.1 of the above-referenced ANSI Standard.

"The primary criterion of this standard is to provide for public health and safety to an average member of a critical group such that the dose shall be limited to 10 μ Sv/y (1.0 mrem/y) Total Effective Dose Equivalent (TEDE), above background, for clearance of materials from regulatory control. When justified on a case-by-case basis, clearance shall be permitted at high dose levels when it can be assured that exposures to multiple sources (including those that are beyond the scope of this standard) will be maintained ALARA and

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will provide an adequate margin of safety below the public dose limit of 1 mSv/y (100 mrem/y) TEDE."

In addition, we urge NRC to preserve the flexibility for special circumstances currently codified at 10 CFR 20, subpart K (waste disposal), section 20.2002, which states that a licensee may apply to the Commission for approval of proposed disposal procedures not otherwise authorized in the regulation.

This Alternative 2, as modified above, would provide for a dose and risk-based standard with the flexibility for special circumstances. It would also provide a regulatory environment that is consistent with other radiological-related rules under the NRC's jurisdiction. Moreover, the scientific basis for this approach is widely endorsed by international scientific communities, such as IAEA, ICRP, NCRP, ANSI, and NAS.

In the absence of promulgating this blended alternative, Boeing believes that the second best approach to this rulemaking is to adopt Alternative 1, i.e., taking no action and maintaining the status quo. Current practices under Regulatory Guide 1.86, as implemented by the NRC, are effective to protect the public health and safety. In fact, our current practices at Boeing provide more stringent protections for public health and safety than the dose-based criteria proposed in this rulemaking.

Boeing is concerned that it would be very difficult to track materials and enforce the restrictions under Alternative 3. Such a conditional release system would entail undue regulatory burdens since future downstream uses could be uncertain and virtually impossible to control. Therefore, Boeing does not support Alternative 3.

Boeing strongly opposes implementation of Alternatives 4 and 5—disposal in either EPA-regulated landfills or NRC/Agreement States-licensed LLW disposal sites. Solid materials with no, or very small amounts of, radioactivity resulting from licensed operations pose no or trivial risks to public health and safety and should be released and used without any restrictions. Flooding regulated landfills and licensed disposal sites with clean materials would not only add unnecessary financial burdens to business and the economy, but would also consume a precious natural resource – land – which could be (and is) utilized for more beneficial purposes. We are also concerned that implementation of Alternatives 4 and/or 5 would inadvertently promote inconsistency within the overall NRC regulatory environment. For example, releasing radiological facilities for unrestricted uses would continue to be based on dose and risk criteria, while releasing solid materials would not.

The scope of this rulemaking addresses only material that is normally "free released" from current licensed facilities. It does not address the disposal of materials from prior licensed facilities, after the facility has been released for



unrestricted use, by meeting the 25 mrem/y requirement of 10 CFR 20 Subpart E. This limited scope of the rulemaking is problematic for two reasons.

First, it results in an apparent inconsistency between the 25 mrem/y license termination rule and the proposed 1 mrem/y limit for released material. Second, current pending legislation in California is calling for Alternative 5 for the disposal of material from already-released, prior radiological facilities. California legislators do not regard disposal to landfills, whether Subtitle C or Subtitle D landfills, as being more protective than recycling. California legislators have therefore already rejected Alternative 4.

In summary, Boeing supports a dose and risk-based rule with the flexibility for handling special cases, as set forth in our clarifications to Alternative 2. Alternatively, we support the "No Action" Alternative 1, as the current approach works well. On the other hand, we strongly oppose the idea to send materials with no, or very small amounts of, radioactivity to either EPA-regulated landfills or NRC/Agreement States-licensed LLW disposal sites, because it offers little environmental benefit while adding significant regulatory burdens.

Boeing appreciates the opportunity to comment on the NRC's Proposed Rule. Should you have any additional questions or concerns, please do not hesitate to contact me at (703) 465-3243.

Very truly yours,

Matthew C. Frank

Matthew C. Frank
Director of Regulatory Affairs

