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Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
ATTN: Rulemaking and Adjudications Staff

In re: NRC Proposed Rulemaking on  
"Controlling the Disposition of Solid  
Materials: Scoping and Workshop"  
Federal Register, vol 68, no. 40  
pp. 9595-9602 February 28, 2003

Dear Madam or Sir:

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The following brief comments on 68 FR 40 (FRN) are submitted by the Pennsylvania-based Environmental Coalition on Nuclear Power (ECNP). ECNP is a not-for-profit public-interest organization, founded in 1970, and has been an active participant in numerous licensing and other proceedings of the AEC and NRC for many years. We have been particularly involved in issues of radioactive waste management, serving on our state's Low-Level Waste Advisory Committee since its inception in 1988, and with the Commission's several prior efforts to gain approval and regulations for the release, recycle, and reuses of radioactive materials and low-level wastes.

These attempts at deregulation of undisclosed but vast amounts of what the NRC terms "slightly contaminated" materials and wastes have failed repeatedly in the years since 1980-81. It is unfortunate that the Commission is again expending its scarce resources on this unwarranted and unwanted endeavor, rather than pursuing the kinds of initiatives that might better protect human health and safety and the natural environment from incremental additions of low-level radiation that raise the levels of naturally-occurring environmental radiation within which we and other living beings have evolved.

Many of our comments on this matter are already in the NRC's voluminous records since that early 1980 effort to release copper, nickel, and steel for recycle and reuse. ECNP joins with the extensive comments on this FRN filed on behalf of the Sierra Club and Nuclear Information and Resource Service. We here incorporate by reference all of our earlier comments and those of NIRS and Sierra Club, and underscore the importance of the staff's, finally, giving them full credence by adopting their recommendations.

At its core, this issue of the proposed release, recycle, and reuse (R/R/R) of what the NRC calls "low-activity materials and "low-level" wastes (LAM and LLW) is a gigantic struggle in the regulatory arena between adverse public health and genetic consequences of R/R/R on the one hand, and the economic costs of isolation of LAM and LLW, which are a necessary part of doing business, by those licensees, including all fuel cycle licensees, who generate and use these materials and wastes, on the other hand. This struggle lies at the heart of profound conflicts in our social order between the responsibility of elected and appointed governments to the electorate and the governed versus the demands of profit-seeking private corporations (and some public entities) to maximize their profits or roles at the expense of the citizenry.

Both federal and state laws and the Constitution have been designed and adopted to provide for the well-being of the nation's people and for the national security and common defense. In this instance, the production -- and now proposed deregulation and recycle -- of enormous quantities of radioactive materials and wastes from the activities of the commercial nuclear power industry (and other nuclear fuel cycle, industrial, academic, and medical producers and users) and the nuclear weapons industry now

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threaten the American people (and the rest of the world's population). These wastes were intended by statute to become the responsibility of the federal and state governments, and to prevent damage to the public by sequestration from the biosystem for the full duration of the hazardous life of these waste materials (they are properly called "waste"). The agencies now realize the difficulties they face.

But radioactive waste released is radioactive waste out of control. Radioactive waste declared to be non-radioactive will still, in truth, be radioactive. The burden of proof that it is not radioactive lies with the generator, as must liability. The Commission and nuclear industry, having failed to create proven safe means of fully sequestering these vast amounts of radioactivity and radioactive wastes that have been generated in the past half century, the NRC and other agencies now wish to renege on controlling them, and instead want to release them without concern for the total additional doses that will be received by individual members of the public, and by the collective population, both now and in the future. This is an appalling and immoral abdication of clear governmental responsibility.

Every one of the NRC's five alternative options proposed in this FRN will result, not in isolation, but rather, in release and ultimate neglect and abandonment of wastes, many of which will remain biological hazards to humans and other forms of life far beyond the disappearance of our present governments and, quite probably, of the civilizations of today.

For these reasons, and for all the reasons included in the NIRS and Sierra Club's detailed comments, ECNP respectfully advises that the Commission take the following measures:

1. Give up altogether the hope of cutting costs and other burdens for licensees, the agency, and others who hold or handle radioactive materials and wastes by means of deregulation and R/R/R.
2. Withdraw this FRN and the entire proposed rulemaking and potential rule, and permanently cancel any plans for renewing this misguided, unpopular effort to permit more contamination of the public and the environment from R/R/R of radioactive materials and wastes in order to benefit NRC's licensees. This action has been rejected by the American people and their elected representatives.
3. Resolve that the Commission will adopt the zero release goal that will halt the additions of radiation above the naturally-occurring background levels which we all are receiving. Accept that low-level radiation is not benign, does not have a "safe threshold," and negatively affects not only human beings, in ways we are only beginning to understand. Abide by the Precautionary Principle. Devote major agency attention to radiation impacts on other species, the complete biota, and to impacts of the synergistic relationships that are damaging to health between and among ionizing radiation and the many other contaminants that are released into the biosphere. This effort will require complex interagency cooperation and cooperation with the Congress and the states.
4. Direct the NRC staff to undertake revisions of occupational and public exposure standards that will be based on the most sensitive sectors of the human population and biota, will maximize protection, and will also account for all forms of insult that are thought to be resultant from low-dose and low dose-rate irradiation (e.g. cancers, all other diseases affecting children, mental retardation and mental illnesses, heart disease, immuno-dysfunctions, chronic fatigue, and especially the failure to thrive of the young).
5. Revise the Commission's mission and regulatory philosophy to one of the prevention of anthropogenic radiation contamination that is additive to natural background levels. (This need not constitute an outright total ban on the medical uses, perhaps a few truly beneficial others, for which a true cost/benefit

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to the individual can be conducted by the person who receives an exposure that would add to his or her total doses from natural background sources.

6. Return the Commission's regulatory philosophy to one of greatest achievable conservatism that includes emphasis on rigorous inspection and enforcement, greater redundancy of safeguards and defense in depth than in the past, adjudicatory proceedings fully open and available to members of the public with litigation financial assistance, and public access to all records and other documents held by the NRC, excepting only those declared to be of vital importance to national and facility security.

7. In concert with the other federal and state agencies that license to generate, use, and "dispose of" radioactive materials and wastes, and that themselves produce and use – and dispose of – radioactive materials and wastes, devise interagency policies, plans, and strategies to minimize reliance on nuclear materials and processes, and instead initiate programs to begin immediately to terminate both general and specific licenses, not issue new ones, or extend or relax existing ones.

8. Focus the full resources of the NRC and its fellow agencies on development of better methods of storing and retaining both physical and regulatory control over all of the anthropogenic radioactive materials and wastes that have been generated thus far in the nuclear age. Imaginative thinking is needed to devise ways of retaining control over nuclear wastes, but doing so in a manner (or in more than one single way) such that future populations will have equal opportunities with us to be able to detect, retrieve, recontain, and continue regulatory oversight over residual, legacy, and all other radioactive residues from our nation's decades of a careless and ill-conceived affection for the uses of the atom.

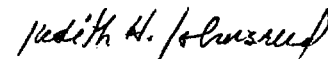
9. Initiate, in concert with the states, programs for seeking and recovering nuclear materials that had been released in the past or have been stolen or lost, including hazardous concentrations of NORM, NARM, and TENORM.

10. Allow the states to set radiation protection standards, regulations, and practices that may be more, but not less, protective than those of the federal government, in order that they may best serve the needs of their own varying populations and situations while also minimizing damaging radiation impacts.

If the NRC were to adopt these ten recommendations and carry them through to revolutionize the agency and make it compliant with what we believe to have been original legislative intent (to wrest control of atomic energy from the military and make it responsible to the civilian sector), the results would not only serve the American people far better than is currently the case, but would also dissolve that crust of mistrust, that "public perception" that so troubles the nuclear industry and the public.

Thank you for the opportunity to submit these comments that are meant to be supportive of the best regulation of nuclear energy that we are capable of achieving.

Sincerely,



Judith H. Johnsrud, Ph.D., Director  
Environmental Coalition on Nuclear Power