

August 6, 2003

Mr. Pearce O'Kelley, Chair  
Organization of Agreement States  
Bureau of Radiological Health  
Department of Health and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

Mr. Richard Ratliff, Chairperson  
Conference of Radiation Control Program Directors, Inc.  
205 Capital Avenue  
Frankfort, KY 40601

SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT COOPERATING AGENCY FOR  
RULEMAKING ON CONTROLLING THE DISPOSITION OF SOLID MATERIALS

Dear Mr. O'Kelley and Mr. Ratliff:

As discussed in a Federal Register Notice (FRN) issued February 28, 2003, the U.S. Nuclear Regulatory Commission (NRC) is conducting an enhanced participatory rulemaking on alternatives for controlling the disposition of solid materials that originate in restricted or impacted areas of NRC-licensed facilities, and that have no, or very small amounts of, radioactivity resulting from licensed operations.

Due to the complexity of the rulemaking, a Generic Environmental Impact Statement (GEIS) is being developed to fulfill our National Environmental Policy Act responsibilities. In the GEIS, in addition to the proposed rulemaking (a dose-based regulation on unrestricted use), other alternatives under consideration include no action (the current approach), a dose-based regulation on conditional use, EPA-regulated landfill disposal, and NRC-licensed low-level radioactive waste facility disposal.

The NRC conducted public workshops in 1999 and 2003 to solicit public input on the scope of a GEIS. Summaries of the 1999 comments can be viewed in NUREG/CR-6682, "Summary and Categorization of Public Comments on the Control of Solid Materials" (September 2000). The recent public comment period ended on June 30, 2003. To assist stakeholders, NRC has placed the public comments on its website. (Go to <http://www.nrc.gov/materials.html> and select "Controlling the Disposition of Solid Materials"; this website also discusses issues and links to other documents.) Also, a report is being developed on the 2003 public comments.

I would like to extend an invitation and ask for your assistance in identifying an individual to represent your organizations to participate in the preparation of a GEIS regarding the rulemaking on controlling the disposition of solid material.

The proposed NRC rulemaking activity will result in related rulemaking activities in the Agreement States and Suggested State Regulations. Also, some States have had related rulemaking activities. For these reasons, the NRC is inviting your organizations to become cooperating agencies in the development of the NRC GEIS. The NRC regulations define "cooperating agency" as any State or Federal agency, other than the NRC, which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or reasonable alternative) for major Federal actions significantly affecting the quality of the human environment (10 CFR 51.14). Participating as a cooperating agency would keep the Agreement States apprized of the issues associated with controlling the disposition of solid material and provide a mechanism for the States to contribute their expertise to the review process, as well as ensure effective communication between our agencies. State representatives are already included in the NRC's working group and senior management steering group.

We would like to meet with you at your earliest opportunity to discuss this invitation to become a cooperating agency. Please feel free to call Phyllis Sobel of my staff at 301-415-6714 or me at 301-415-7275.

Sincerely,

*/RA/*

Lawrence E. Kokajko, Acting Chief  
Environmental and Performance  
Assessment Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

The proposed NRC rulemaking activity will result in related rulemaking activities in the Agreement States and Suggested State Regulations. Also, some States have had related rulemaking activities. For these reasons, the NRC is inviting your organizations to become cooperating agencies in the development of the NRC GEIS. The NRC regulations define "cooperating agency" as any State or Federal agency, other than the NRC, which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or reasonable alternative) for major Federal actions significantly affecting the quality of the human environment (10 CFR 51.14). Participating as a cooperating agency would keep the Agreement States apprized of the issues associated with controlling the disposition of solid material and provide a mechanism for the States to contribute their expertise to the review process, as well as ensure effective communication between our agencies. State representatives are already included in the NRC's working group and senior management steering group.

We would like to meet with you at your earliest opportunity to discuss this invitation to become a cooperating agency. Please feel free to call Phyllis Sobel of my staff at 301-415-6714 or me at 301-415-7275.

Sincerely,  
**/RA/**

Lawrence E. Kokajko, Chief  
 Environmental and Performance  
 Assessment Branch  
 Division of Waste Management  
 Office of Nuclear Material Safety  
 and Safeguards

**DISTRIBUTION:** NMSS/DWM r/f EPAB r/f ACNW CAbams, IMNS  
 JCDehmel, RES KBarber,OGC AHuffert, DCB SKlementowicz,NRR  
 DHammer, ICF

G:\DWM\EPAB\PAS\CRCPD\_LETTER.WPD

Log No.: 03-136

**ML032190151**

<b>OFC</b>	DWM:NMSS		DWM:NMSS		IMNS:NMSS		OSTP	
<b>NAME</b>	PSobel:ml		SCFlanders		CAbrams		PLohaus	
<b>DATE</b>	07/31/03		07/31/03		07/31/03		08/06/03	
<b>OFC</b>	OGC		DWM:NMSS					
<b>NAME</b>	STreby		LEKokajko					
<b>DATE</b>	07/ /03		08/06/03					

OFFICIAL RECORD COPY

This document **should** be made available to the PUBLIC PAS 7/31/03  
 Initials) (Date)