

August 6, 2003

Mr. Frank Marcinowski, Director
Radiation Protection Division
Office of Radiation and Indoor Air
Mail Code 6608J
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

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

Dear Mr. Marcinowski :

I am inviting you, as a representative of your organization, to participate in the preparation of a Generic Environmental Impact Statement (GEIS) regarding the rulemaking on controlling the disposition of solid material. 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.

The NRC conducted public workshops in 1999 and 2003 to solicit public input on the scope of the 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.

Due to the complexity of the rulemaking, a 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 Environmental Protection Agency (EPA) previously had related rulemaking activities, coordinated with NRC on the development of the technical information bases on controlling the disposition of solid materials, and currently is engaged in rulemaking activities on RCRA landfill disposal. For these reasons, the NRC is inviting EPA to become a cooperating agency in the development of the NRC GEIS. The NRC regulations define "cooperating agency" as any 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 EPA apprized of the issues associated with controlling the disposition of solid material and provide a mechanism for the EPA to contribute its expertise to the review process, as well as ensure effective communication between our agencies. EPA would be included in the NRC's working group and senior management steering group. In addition to radiation protection, we would also request assistance from EPA in the area of landfill disposal.

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
Office of Nuclear Material Safety
and Safeguards

F. Marcinowski

-2-

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