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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 07 1997

THE ADMINISTRATOR

Honorable Shirley Ann Jackson
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Ms. Jackson:

I am writing regarding the Nuclear Regulatory Commission (NRC) rule on radiological criteria for license termination that is expected to be finalized early this year. We are concerned that NRC may choose to take a more lenient position than it previously proposed concerning ground water remediation and cleanup levels.

We understand that NRC is giving particular consideration to making significant changes from its proposed rule of August 22, 1994. The Environmental Protection Agency (EPA) finds these changes, such as increasing the proposed dose limit from 15 mrem/yr to as much as 30 mrem/yr and eliminating a separate requirement for protecting ground water that could be used as drinking water to the Maximum Contaminant Levels (MCLs) established under the Safe Drinking Water Act, to be disturbing.

With regards to ground water, this Administration's position is that current or potential future sources of drinking water are a valued national resource and should be protected to levels suitable for drinking (e.g., MCLs). A cleanup standard based solely on a multipathway dose limit (either 15 or 30 mrem/yr), does not ensure that ground water is cleaned up within the aquifer, but instead could rely solely on exposure controls. Therefore, EPA thinks that it is vital that the NRC rule protect ground water that is a current or potential future source of drinking water.

If in fact our understanding is correct, then EPA would also consider NRC's rule to be not protective under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and not consistent with this and previous Administrations' Ground Water Policy. EPA has the authority to

2

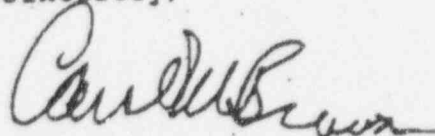
choose not to respond to certain types of releases under CERCLA because existing regulatory or other authority under other Federal statutes provides for an appropriate response. EPA has previously chosen not to list on its National Priorities List (NPL) for CERCLA releases of source, by-product, or special nuclear material from any facility with a current license issued by the NRC. This decision was made on the grounds that the NRC has full authority to require cleanup of releases from such facilities.

If NRC were to promulgate its rule with the above-referenced changes, EPA would be forced to reconsider its policy of exempting NRC sites from the NPL. This change in EPA listing policy for the NPL would reflect the EPA view that NRC regulation would not be adequately protective of human health and the environment under CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP).

In addition to the issues raised by the NRC rulemaking, there appear to be consistency issues with two existing NRC guidance (NRC Branch Technical Position "Disposal of On-Site Storage of Thorium or Uranium from Past Operations," 46 FR 52061, October 1981, and Policy and Guidance Directive FC 83-23 "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of License for Byproduct, Source, or Special Nuclear Material License," August 1987) and the NCP and Superfund guidance since they recommend cleanup levels for some radionuclides that may result in doses higher than 15 mrem/yr.

I view these changes to the NRC rulemaking on radiological criteria for license termination, and the potential action that may be required of EPA, to be very serious matters. We will be happy to work with your staff to ensure the promulgation of a rule, and the development of related guidance, that are consistent with CERCLA.

Sincerely,



Carol M. Browner