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December 22, 1999

Secretary of the USNRC
 Attention Rulemakings and Adjudication Staff
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555
 FAX 301-415-1101
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DOCKET NUMBER
 PROPOSED RULE FR 20
 (64FR35090)

RE: NRC's Radioactive Release Rulemaking 64 FR 35090. 6-30-99

Dear Chairman Meserve:

We are writing on behalf of Massachusetts Citizens for Safe Energy, a statewide public interest group in Massachusetts that focuses largely on nuclear power issues. We urge you to:

- require isolating, not re-cycling, radioactive wastes and materials and anything they contaminate, irrespective of level of contamination;
- identify, track and recapture the radioactive waste that has already been released from nuclear power and weapons facilities by federal and state regulators; and
- extend the comment period on releasing radioactive waste into commerce to at least September 2000.

Radioactive Waste - Isolated not Re-Cycled

We are convinced from studying reputable reports of current research on radiation health effects that there has never been demonstrated to be a "safe" dose of radiation. Hormesis is an embarrassment. The linear dose response is established. In fact, radiation in low doses has been shown to be more damaging than previously thought. The effects of radiation are cumulative. Radiation works with other toxins in a synergistic manner. All of this means that we do not want to increase these toxins in our environment. Precaution requires isolation and reduction.

This leads us to support the following guidelines put forth by leading public interest groups, such as Public Citizen and the Nuclear Information Resource Service, already on record at the NRC on this issue.

TRACK AND RECAPTURE ALREADY-RELEASED RADIOACTIVE WASTES

The current practice of allowing release of radioactive wastes from commercial licensees and weapons facilities should stop. To protect public health, no future radioactive releases should be permitted and a full accounting and recapture of that which has already been released should commence.

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PREVENT AVOIDABLE RADIATION EXPOSURES and RISKS

Using radioactive wastes in consumer products poses unnecessary, avoidable, involuntary, uninformed risks. The consumers, the producers, the raw materials industries don't want these radioactive wastes or risks.

COMPUTER MODELS NOT ACCURATE, RELIABLE, VERIFIABLE

It is not credible to believe computer models can calculate and accurately predict any or ALL of the doses to the public and the environment from all of the potential radioactivity that could be released over time. Projections of "acceptable" or "reasonable" risks from some amount of contamination being released are meaningless and provide no assurance. Monitoring for the specific types and forms of radioactivity that could get out can be very expensive and complicated to perform. Monitoring is never 100% accurate. Hot spots can sneak through. We can't trust the nuclear generators, those with vested interest, to monitor their own releases.

EXPENSIVE TO MONITOR; IMPOSSIBLE TO VERIFY OR ENFORCE RELEASES

No matter what level the NRC sets for allowable radiation risk, dose or concentration, it will be impossible to measure, verify and enforce with certainty. Who is liable if the "legal" standards NRC intends to set are violated? How do you undo the release? The damage is done. For decades the public has clearly opposed releasing radioactive materials into commerce. We continue to do so.

EXISTING RADIATION DOESN'T JUSTIFY DELIBERATE ADDITIONS

Naturally occurring background radiation cannot be avoided (except in some instances for example, reducing radon in homes) but its presence in no way justifies additional, unnecessary, involuntary radiation exposures, even if those exposures might be equal to or less than background. Nor does it justify shifting the economic liability from the generators of radioactive wastes and materials to the economic and health liability of the recycling industries, the public and the environment.

SUPPORT METAL INDUSTRIES' "ZERO TOLERANCE" OF CONTAMINATION

We fully support the "zero tolerance" policies of the metal and recycling industries, the management and the unions. We appreciate their efforts, not only in opposing the legalization of radioactive releases, but in their investing in detection equipment and holding the line against the radioactive threat to the public. They should not have to be our de-facto protectors. The NRC, DOE and EPA must act to prevent the dissemination of radioactive wastes into recycled materials and general commerce. The problems that have been experienced by the steel recycling industry with "generally-licensed sealed sources" getting into their facilities and costing tens of millions of dollars to clean up should serve as a warning not to permit other radioactive wastes and materials to get out of regulatory control.

US AGENCIES MUST PREVENT FUTURE RELEASES, RECAPTURE PAST RELEASES, AND PUSH FOR INTERNATIONAL PROHIBITION

The fact that radioactive waste is already getting out should not be used to justify legal levels allowing more out - two wrongs never made a right. The NRC, EPA and DOE should prevent future releases and correct past releases. The fact that other countries are releasing radioactive materials into the marketplace is no excuse for us to legalize it. The United States should take

the lead in preventing contamination of the international marketplace. We protect ourselves best by not facilitating international radioactive commerce. The fact that it is difficult and expensive to monitor and detect radiation does not justify its release. Those materials must be isolated, not released, at any level.

NRC HAS CLEARLY ALREADY DECIDED TO RELEASE IN VIOLATION OF NEPA
The mindset of the NRC appears convinced that it should legalize radioactive wastes being "recycled" into the marketplace. The NRC has stated in its Staff Requirements Memo that the standard must allow "releases" to take place and that all radioactive materials will be eligible for "clearance." This means that the NRC is not seriously examining all of the options available, such as non-release, even though the National Environmental Policy Act (NEPA) requires all options to be considered. This is yet another example of why the public has lost complete faith in the NRC as regulators.

NRC CONTRACTOR (SAIC) HAS CLEAR CONFLICT OF INTEREST
Furthermore, the NRC is relying on a private contractor called Science Applications International Corporation (SAIC) to prepare the technical basis for the proposed regulation. This is a blatant conflict of interest. The NRC has not publicly disclosed the relevant economic interests of SAIC. The NRC has not notified the public that SAIC has simultaneously been working with or for other corporations with substantial economic interests in the Commission's determinations in this rulemaking. In particular, since mid-1996, SAIC has been the teaming partner of British Nuclear Fuels, Ltd. (BNFL) under a quarter billion DOE contract for recycling unprecedented amounts of contaminated radioactive metallic waste from the Oak Ridge TN uranium enrichment buildings. This situation calls into question the legality of the entire NRC process.

EXTEND COMMENT PERIOD


The public comment period should be extended to allow the public the opportunity to learn about and comment on this proposal. This is especially so because the NRC is attempting to cover its requirements under NEPA to establish this radioactive "release" rule.

CONCLUSION

In conclusion, we call on the NRC to serve the interests of the public instead of the nuclear industry and:

1. prohibit the release of radioactive materials into commerce, landfills and incinerators;
2. identify, track and recapture the radioactive waste that has already been released from nuclear power and weapons facilities by federal and state regulators; and
3. allow the public at least 8 more months to comment.

Sincerely,


Mary Lampert on behalf of
Massachusetts Citizens for Safe Energy