

Mr. B. John Garrick, Chairman
Advisory Committee on Nuclear Waste
Washington, DC 20555-0001

April 11, 2000

SUBJECT: REGULATORY APPROACHES FOR CONTROL OF SOLID MATERIALS
(CLEARANCE RULE)

Dear Mr. Garrick:

I am responding to your letter forwarding the recommendations of the Advisory Committee on Nuclear Waste (ACNW) regarding regulatory approaches for control of solid materials (clearance rule). Specifically, your recommendations included that: (1) any regulations about the control of radioactive materials be based on radiation dose rather than on precedent, such as might be derived from the exemption of coal ash; and (2) criteria should be established that will provide a consistent and rational basis for regulating materials with similarly low levels of radioactivity, and that it is especially important that consistency be based on dose, not radioactivity content of material because of self-shielding by the material.

As you are aware from the briefing provided by the Nuclear Regulatory Commission (NRC) staff on December 16, 1999, the NRC is in the preliminary stages of examining its approach for controlling solid material and has sought public input to its decision-making process through various forums. These forums have included requesting public comment on an Issues Paper published on June 30, 1999, in the Federal Register (64 FR 35090) and holding a series of public meetings, during the fall of 1999, at four locations. In addition, the staff has provided information to the public about current NRC efforts in this area by use of the following website: <http://www.nrc.gov/NMSS/IMNS/controlsolids.html>.

On March 23, 2000, the NRC staff provided the Commission with a paper (SECY-00-0070) summarizing the public's concerns, expressed both during the public meetings and in written comments, along with the staff's recommendations on how to proceed regarding control of solid materials at licensed facilities. Attachments 1, 2, 3, and 4 of the paper contain, respectively: (1) an analysis of alternatives for proceeding; (2) a detailed discussion of stakeholder concerns and comments expressed at the public meetings and in comment letters; (3) a discussion of each aspect of NRC's technical basis development, including its current status, issues or problems, and future work plans; and (4) international activities in this area. Attachment 1 also contains a discussion of activities of other bodies that should be considered in decision-making on control of solid materials, including Federal agencies such as the U.S. Environmental Protection Agency, the U.S. Department of State, and the U.S. Department of Energy, and organizations such as the American National Standards Institute.

As noted in SECY-00-0070, the diversity of public views expressed on this issue underscore the need to develop a national standard to provide a clear and uniform approach to the control of solid materials. However, the acceptability of criteria in a standard will depend on a variety of the factors described above. Thus, it is just as critical to consider the process used to move discussions forward as it is to clearly articulate the technical basis for any criteria that might be

established. Therefore, the NRC staff has recommended, in SECY-00-0070, that a final decision on whether to proceed with rulemaking be deferred at this time, and that the staff take the following actions:

- a) Request the National Academy of Sciences (NAS) to conduct a study and provide recommendations on possible alternatives for release of slightly contaminated materials. It is planned that the NAS study will take 9 months to complete. This request for an NAS-conducted study was directed by the Commission in a March 8, 2000, Staff Requirements Memorandum; and
- b) Continue to develop the information base, as described in Attachment 3 of SECY-00-0070, in such areas as inventories of material at facilities; potential pathways and doses (including the potential for multiple exposures); various associated costs; and survey methods. Continuing these staff actions during this period will provide the staff with useful information, independent of the outcome of the NAS study.

It is anticipated that these actions will allow the NRC to gain further insights as to paths forward and further develop its information base. Together, they will place NRC in a better position to proceed with decisions on potential policy and technical approaches.

The Commission is currently reviewing SECY-00-0070 and anticipates holding two separate meetings, open to the public, in May 2000. At the first meeting, the staff will brief the Commission on the paper, and at the second meeting, representatives of various stakeholder groups will be provided with an opportunity to express their comments and concerns to the Commission.

The staff anticipates working with the ACNW as it further develops its technical basis and considers the results of the NAS study.

Sincerely,

/RA/

William D. Travers
Executive Director
for Operations

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
SECY

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/RA/
 William D. Travers
 Executive Director
 for Operations

cc: Chairman Meserve SECY
 Commissioner Dicus
 Commissioner Diaz
 Commissioner McGaffigan
 Commissioner Merrifield

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