

Stop the NRC from Authorizing the Release of Radioactive Waste into Communities!

Background:

The Nuclear Regulatory Commission (NRC) Staff is expected to submit a "Controlling the Disposition of Solid Materials" rulemaking package to the Commission by the end of March. The proposal, however, has nothing to do with control.

Specifically, the proposal is to instigate a rulemaking to once again try to deregulate significant portions of the "low-level" radioactive waste stream, permitting nuclear material to go to unlicensed sites such as local municipal garbage dumps, hazardous waste sites, and recyclers for transformation into building and construction materials. Landfills are known to contaminate nearby soil and drinking water, and recycled materials are used throughout our cities, suburbs, and rural communities. From a human health perspective, there is no safe level of exposure to ionizing radiation.

In addition, the NRC staff is moving to present this misnamed rulemaking to the Commission without making the recommendation immediately public, and without scheduling a Commission meeting to hear from staff and key stakeholders.

Don't let the NRC proceed in this manner! This is a regulatory agency whose stated number-one priority is the protection of public health! The release of radioactive waste into our communities is dangerous and unacceptable, and decisions of this importance should not be done secretly!

Click here for more background and history on this issue:

http://www.citizen.org/cmep/energy_enviro_nuclear/nuclear_waste/low-level/recycling/

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March 31, 2005

U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Opposition to Proceeding with Rulemaking on the Release of Currently Regulated Radioactive Waste and Materials to Unlicensed Destinations ("Controlling" the Disposition of Solid Materials)

Dear Commissioners Diaz, Jaczko, Lyons, McGaffigan and Merrifield:

Nineteen years ago, the Nuclear Regulatory Commission ignited a national firestorm of concern and outrage when it issued a Policy Statement on radioactive waste "Below

Regulatory Concern" (BRC), essentially attempting to deregulate a major portion of the "low-level" radioactive waste stream. The BRC Policy would have permitted radioactive wastes to be disposed of in landfills not licensed or designed to handle radioactive wastes, and to be otherwise released, so they could end up in schools, farms, and parks throughout our cities, suburbs, and rural communities. The proposed policy would even have allowed "recycling" nuclear waste into consumer products. The Commission, charged with regulating such materials so as to isolate them from the human environment, had chosen instead - in order to save money for industry rather than protect the health of the public - to permit nuclear wastes to be placed into intimate human contact.

The outcry was intense. State legislatures around the country passed laws barring BRC practices within their borders. Eventually the Congress intervened, in a remarkable fashion, and by statute overturned the NRC's BRC 1986 Policy and its 1990 expanded BRC policy, and expressly reserved for the states the right to regulate any radioactive material that NRC might subsequently try to deregulate [Energy Policy Act of 1992].

Several years later, the Commission asked the National Academy of Sciences to perform a study about whether another attempt at deregulating certain radioactive wastes should be undertaken. Hoping for some political cover from the Academy, the NRC was shocked when NAS declined to endorse such an effort and provided very strong criticism of NRC's credibility in such matters. The Academy report concluded that if the NRC nonetheless remained interested in such a BRC endeavor, no such effort should be undertaken until and unless NRC had taken significant, successful measures to repair its credibility with stakeholder groups. The National Academy of Sciences committee - established at the request of the Commission - stated:

[T]hat in the past, the USNRC failed to convince any environmental and consumer advocacy groups that the clearance of slightly radioactive solid material can be conducted safely, and failed to convince certain industry groups that such clearance is desirable...Furthermore, a legacy of distrust of the USNRC has developed among many of the environmental stakeholder groups, resulting from their experience with the BRC policy, the enhanced participatory rulemaking on license termination ("decommissioning rule"), and the USNRC's 1999 issues paper, published in the Federal Register on June 30, 1999, on the clearance standards. Reestablishing trust will require concerted and sustained effort by the USNRC.

The USNRC must overcome serious levels of distrust, generated by its actions during the BRC policy and License Termination Rule efforts, before [any effort to revive a new BRC policy] is likely to succeed.

Despite these strong recommendations, however, no such efforts have truly been undertaken; indeed, every action has further eroded public confidence. Although NRC has had some public meetings and workshops, these have been few and far between, and NRC has used these meetings simply as a way to improve the image of the proceedings without seriously taking the input of citizen and industry groups into account.

Rather than give up on deregulating radioactive wastes, NRC has been quietly proceeding to put the pieces in place to try again. NRC has spent large amounts of staff and

contractor time and international effort to do exactly what the public opposes - release radioactive waste into our communities.

At present, the NRC staff is set to submit to the Commission a recommendation that it approve a kind of "BRC II". The proposal is to instigate a rulemaking to once again try to deregulate significant portions of the "low-level" radioactive waste stream, permitting licensed nuclear material to go to unlicensed sites such as local municipal garbage dumps, hazardous waste sites, and recyclers for use in consumer goods and construction materials (giving new meaning to the phrase "hot roads"). This can only create, as did the ill-fated BRC efforts of the early 1990s, tremendous concern across the country and further damage the Commission's very tattered credibility.

We are therefore dismayed that the NRC is moving forward with BRC, the Sequel. We are furthermore concerned that the Commission is doing so in a non-transparent way that will further erode public trust. In particular, it is our understanding that the staff proposal will be presented to the Commission with no public meeting, no testimony from key stakeholders, and without the proposal becoming immediately public. The Commission rather will vote in private on this important and controversial proposal, after having only seen recommendations from the staff but not hearing directly from those who would be most affected.

There will of course be an opportunity for the public to submit written comments to the staff after the Commission approves the proposal for rulemaking and directs the proceeding to begin. But the Commissioners themselves really should hear directly from stakeholders NOW, prior to embarking on this dangerous course.

Furthermore, NRC appears to intend the rulemaking to have a pre-ordained outcome. NRC is already considering and approving such deregulations without public input and now seeks to do so generically. For example, the operators of the Connecticut Yankee reactor are requesting to dispose of significant quantities of radioactive decommissioning waste at an unlicensed landfill in Idaho. NRC staff appears on the verge of approving this request without any opportunity for a public hearing.

We therefore strongly urge you to:

1. Vote against initiating any rulemaking to remove from full regulatory control portions of the radioactive waste stream - i.e., do not move forward with a new, highly controversial BRC/deregulation endeavor.
2. Insist that before any such vote, the Commissioners hold a public meeting at which representatives of our stakeholder community can testify to the Commissioners as to why you should not proceed with the staff's proposal. It is highly inappropriate to vote on such an important issue after having only had input from the staff pushing the proposal and not from anyone opposing it.

3. Require that the staff recommendation be made public immediately when it is submitted to the Commissioners and before the Commission meeting requested in (2) above, so that stakeholders can effectively inform you of its problems in detail.

4. Direct staff to not approve the Connecticut Yankee request, or any similar requests to send decommissioning wastes to landfills not licensed to receive Atomic Energy Act radioactive wastes.

The job of the Nuclear Regulatory Commission is to *regulate* nuclear materials, not *deregulate* them. The lessons of the BRC controversy of a decade and a half ago should not be forgotten. The release of radioactively contaminated materials violates your mission of protecting public health. Proceeding with this ill-conceived favor to industry would destroy the last vestiges of opportunity for the Commission to resurrect public confidence. We urge you to not go down this dangerous path.

Sincerely,

Wenonah Hauter
Public Citizen

Diane D'Arrigo
Nuclear Information and Resource Service

Susan Gordon
Alliance for Nuclear Accountability

Ed Hopkins
Sierra Club

Robert K Musil Ph.D. MPH
Physicians for Social Responsibility

Erich Pica
Friends of the Earth

Lisa Finaldi, Jim Riccio
Greenpeace

Dan Hirsch
Committee to Bridge the Gap

Kevin S. Curtis
National Environmental Trust

Julie Enszer, Margaret L. Keon
Nuclear Policy Research Institute

Alice Slater, Leslie Seth
Global Resource Action Center for the Environment (GRACE) Public Fund
New York, NY

Lawrence A. Plumlee, M.D.
Chemical Sensitivity Disorders Association

S.(Ziggy) Kleinau
Citizens For Renewable Energy/Great Lakes United

John Bailey
Institute for Local Self-Reliance

Peter Alexander
New England Coalition
Brattleboro, VT

Micah Walker Parkin
Alliance for Affordable Energy
New Orleans, LA

Anita L. Chronister
Concerned Citizens
Prescott, Arizona

Adele Kushner, Executive Director
Action for a Clean Environment
Alto, Georgia

Amy Williams
Concerned Citizens for Nuclear Safety
Santa Fe, NM

Austin Gelzer
Monmouth for Democracy
New Hampshire

Barbara Backman
PACE (People's Action for Clean Energy)
Canton, CT

Becky Bornhorst
Downwinders at Risk
Dallas, TX

Ms. Betsy Moon
Creators Syndicate
Austin, TX

Betty Schroeder
Arizona Safe Energy Coalition
Tucson, AZ

Lea Foushee
North American Water Office
Lake Elmo, MN

Bruce A Drew
Prairie Island Coalition
Minneapolis, MN

Carrie Dickerson
Citizens' Action for Safe Energy
Claremore, Oklahoma

Catherine Quigg
NEIS
Barrington, IL

Mr. and Mrs. Charles R. Hinton, Sr.
Concerned Citizens of Longview
Longview, Texas

Chris Trepal
Earth Day Coalition
Cleveland, OH

Connie Hogarth
Connie Hogarth Center for Social Action of Manhattanville College
Purchase, NY

Janet Greenwald
Citizens for Alternatives to Radioactive Dumping
Albuquerque, NM

Daniel Jameson, Emily Aversa, Marc Page
Gallup Street Solidarity
Gallup, NM

Daniela K. Horsman, R.N.
NursesNet LLC

Lorton, VA

Dave Kraft
Nuclear Energy Information Service
Evanston, IL

Jane Williams
California Communities Against Toxics
Rosamond, CA

Deb Katz
Citizens Awareness Network
Shelburne Falls, Ma

Dennis Larson
PASE (Peoples Action for Safe Energy)
Parthenon, Arkansas

Don J. Devine
Devine Design
Chester, NY

Diana McKeown
Clean Water Action Alliance of Minnesota
Minneapolis, MN

Ellen Thomas
Proposition 1 Committee
Washington, DC

John Blair
Valley Watch, Inc.
Evansville, IN

Eleanor Culberson
Committee for Consumer Rate Relief
Houston, Texas

Ellen Lebowitz
Green Delaware
Newark, DE

Alan Muller
Green Delaware
Port Penn, DE

Elinor Weiss
Social Action Committee of Temple Sinai
East Amherst, New York

Evelyn Justesen
Mothers for Peace
San Luis Obispo, CA

Floyd Sands
Families In Search of Truth
Fallon, NV

Frank C. Subjeck
airwaterearth, org
Lake Havasu City, Arizona

Ernest Fuller
Concerned Citizens for SNEC Safety (CCSS)
Saxton, PA

Gene Burke
Santa Monicans for Safe Drinking Water Coalition
Environmental Health Projects
Santa Monica, CA

Susan Clark
Americans for a Safe Future
Sherman Oaks, CA

Gladys Schmitz, SSND
Mankato Area Environmentalists
Mankato, MN

Lorriane Gold
S.E.A. Alliance, New Jersey
Blairstown, NJ

Greg Wingard
Waste Action Project
Seattle, WA

Gretel Munroe
Grassroots Actions for Peace
Concord, MA

Hart Feuer

Lafayette Environmental Awareness and Protection (LEAP)
Easton, Pennsylvania

Sr. Helen Lembeck
Medical Mission Sisters
La Mesa, CA

Holy Holily Holian
Social Security Administration for the Disabled Worker
Arcata, California

Jane Harris
Oregon Center for Environmental Health
Portland, OR

Jane Swanson
San Luis Obispo Mothers for Peace
Pismo Beach, Ca

Klaus Schumann, Mary Jane Adams
San Luis Obispo County GREEN Party
Paso Robles, Ca.

Jay Coghlan
Nuclear Watch of New Mexico
Santa Fe, NM

Jennifer O. Viereck
HOME: Healing Ourselves & Mother Earth
Tecopa, CA

Jeremy Maxand
Snake River Alliance
Boise, Idaho

Joanne Steele
Action for a Clean Environment
Nacoochee Presbyterian Peace and Justice Committee
Sautee-Nacoochee, GA

John B. Gilpin
No New Nukes
Champaign IL

Dr. Judith Johnsrud
Environmental Coalition on Nuclear Power

State College, PA

Hollis Zelinsky
Central Pennsylvania Citizens for Survival
State College, PA

Judy Alter
Alliance for Retired Americans,
Culver City, CA

Judy Treichel
Nevada Nuclear Waste Task Force
Las Vegas, NV

Karen H. Prather
C.A.R.I.E. Concern About Radiation In the Environment
Corry, PA

Kathryn Barnes
Don't Waste Michigan

Ken Bossong
SUN DAY Campaign
Takoma Park, MD

Mary Lampert
Pilgrim Watch
Duxbury, MA

Rev. Larry Bernard, O.F.M.
Office of Justice, Peace and Integrity of Creation of the Franciscan Province of Our Lady
of Guadalupe
Laguna/Albuquerque, New Mexico

Sister Mary Frances Gebhard
St. Bede Monastery
Eau Claire, WI

Laura Cayford
Jersey Shore Nuclear Watch
Asbury Park, NJ

LeGrande Renfroe
L & N Produce
Thomasville, GA

Leo and Carolyn Prinster
Pax Christi
Glenwood Springs, Colorado

Lionel Delevingne
Delevingne & Associates
Piermont NY

Lisa Guido
Ithaca Catholic Worker Community
Ithaca, NY

Lisa Johnson
Department of History
Carnegie Mellon University
Forest Hills, PA

Lyn Borisof,
Ethical Humanist Society of Greater Chicago
Skokie, IL

Marilyn and Steven Strong
Solar Design Associates, Inc
Harvard, Massachusetts

Mark A. Mitchell M.D., MPH
Connecticut Coalition for Environmental Justice
Hartford, CT

Martha Ferris
Vicksburg, MS

Mary Davis
Earth Island Institute's Yggdrasil Institute
Georgetown, KY

MaryJane Shimsky
Citizens for Safe Energy
Hastings-on-Hudson, NY

Agnes M. Reynolds RNC
Staff RN Women's Health
Hartford Hospital
Hartford, CT

Katherine Dietrich

Richmond Collective
Richmond, Virginia

Grace Potorti
Nevada Conservation League

Michel Lee, Esq.
Council on Intelligent Energy & Conservation Policy
White Plains, New York

Miriam MacGillis
Genesis Farm
Blairstown, NJ

Molly Johnson
Grandmothers for Peace
San Luis Obispo County Chapter
San Miguel, CA

Nancy Burton
Connecticut Coalition Against Millstone
Redding Ridge CT

Cary Vigneri
Nebraskans for Peace, Omaha chapter
Omaha, NE

Olivia Zivney
Gallipolis Developmental Center
Gallipolis, OH

Paula Gotsch
Grandmothers, Mothers and More for Energy Safety
Brick, NJ

Paxus Calta
PACE - Peoples Alliance for Clean Energy
Louisa VA

Pat Birnie
Women's International League for Peace and Freedom, Tucson Branch
Tucson, AZ

Patricia Krommer C.S.J.
Pax Christi, Los Angeles
Monterey Park, CA

Nebraska State Senator Don Preister
Lincoln, Nebraska

Peggy Maze Johnson
Citizen Alert
Las Vegas, NV

Peg Ryglisyn
Connecticut Opposed to Waste
Broad Brook, CT

Sandra Lindberg, Samuel Galewsky
No New Nukes
Bloomington, IL

Richard Hausman, Research Director
Clean Yield Asset Management
Greensboro, VT

Robert R. Holt
Truro Energy Committee
Truro, MA

Carolyn and Roy Treadway
No New Nukes
Normal, IL

Sandra Gavutis, Kathy Weinstock
C-10 Research and Education Foundation
Newburyport, MA

Sholey Argani MD
Assistant prof
George Washington University School of Medicine
Washington DC

Sid Goodman and Irma Goodman
Gizmogeek
Mahwah, NJ

Staci-lee Sherwood
Executive Director
American Working Group National Policy
PO Box 62
Bloomington New York

Thomas Talmadge
Transportation Consultants
El Cajon, California

Thomas A. Baldino
The Beacon Sloop Club
Beacon, NY

Wendy Oser
Nuclear Guardianship Project
Berkeley, CA

Carol A. Bruno
Brimfield Herb & Flower Farm
Brimfield, MA

Thomas V. Connor
SFO
Fraternity Minister
Secular Franciscan Order, Saint Peter Damian Fraternity
Saint Joseph Church
New Paltz, N.Y.

Anita Knight
St. Petersburg, Florida