

**Congress of the United States**  
**Washington, DC 20515**

June 10, 2010

The Honorable Gregory Jaczko  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Dear Chairman Jaczko,

We are writing in regards to the April 7, 2010 staff policy paper on the blending of low-level radioactive waste (LLRW), currently under consideration by the U.S. Nuclear Regulatory Commission (NRC). We understand that the Commission will be meeting on June 17 to discuss the four policy options for blending laid out in this paper: 1) maintenance of the current NRC positions on blending of homogeneous waste streams, 2) revision of the NRC blending position to be risk-informed and performance-based (i.e., allowing the mixing of waste classes), 3) revision of NRC policy to further constrain blending, and 4) prohibition of large-scale blending at off-site processors.

We have legitimate concerns about allowing the mixing of Class B and C waste with Class A waste so that the resulting mixture is designated as Class A waste. The NRC staff has indicated their preference for Option 2, which we believe opens the door to large-scale downblending of waste and requires this waste to be reclassified as a “unique waste stream,” similar to the classification made for depleted uranium. Such a designation makes it clear that the NRC understands that downblended waste is not Class A waste. We strongly oppose both of these actions.

As you know, Class B and Class C waste have specific concentration limits and radionuclide activity limits. However Class A waste is simply a catchall category for all leftover material which has lower radioactivity levels. Therefore, blending “hotter” levels of LLRW with lower level waste would appear to violate the storage guidelines established for disposal facilities licensed only for Class A waste, like the one at Clive, Utah.

Utah law clearly prohibits the storage of Class B and Class C waste in the state. Should the NRC move forward with Option 2 and the reclassification of blended LLRW as a “unique waste stream,” we question how the final product would meet the regulatory standard in Utah, which only permits Class A waste. More importantly, we are concerned that downblending may be a back-door means to store higher level radioactive waste in a state that has specifically decided not to take hotter waste.

As the Commission prepares to vote on blending of LLRW, we hope you will consider the following questions in your deliberations, several of which were also raised in a January 14 letter

sent to the NRC by Rep. Matheson. We would request that the Commission not move forward to allow blending of LLRW until these questions are answered.

- How does blending alter the characterization now bestowed on Class B and Class C waste?
- Would a landfill designed only for a 100-year radioactive decay rate qualify for storage of blended waste?
- Will the public lose confidence in the NRC waste disposal licensing process when a Class A disposal site is actually receiving Class B and C waste?)
- Would facilities licensed for only Class A waste need to be relicensed if the radioactivity level of stored material increases due to blending?
- If the NRC decides to permit blending, how would this affect states, like Utah, that do not allow Class B or Class C waste to be disposed of in their LLRW sites?
- Is the only purpose of Option 2 to allow the disposal of Class B and C waste in the Clive, Utah, site, by mixing it with large volumes of Class A waste and then claiming that the “average concentration” is Class A for disposal purposes?
- The newly licensed low-level radioactive waste disposal site in Texas is authorized to take Class B and C waste. Why would downblending be a permissible or preferable option when we have an appropriately licensed facility specifically for Class B and C waste?

Finally, we note that the staff paper highlights the “benefit” of downblending given the limited U.S. disposal capacity for Class B and C waste. However we feel that such a change in rules would be a stop-gap measure that simply postpones the inevitable and necessary conversation about the state of nuclear waste disposal capacity in the U.S. If downblending is instead severely restricted, then the nuclear industry and the nation as a whole would be forced to confront what is a serious nuclear waste disposal crisis. By masking this problem and postponing any solution, we do our country a disservice.

Thank you in advance for your consideration of our views. We hope to hear from you at your earliest convenience regarding the raised. Should you have any questions about this matter, please feel free to contact Ashley Martin of Rep. Matheson’s staff at 202-225-3011, Dr. Katie Matthews or Dr. Michal Freedhoff of Chairman Markey’s staff at 202-225-2836, or Elizabeth Nevitt of Chairman Gordon’s staff at 202-225-4231.

Sincerely,

  
JIM MATHESON  
Member of Congress

  
EDWARD MARKEY  
Member of Congress

  
BART GORDON  
Member of Congress