

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

October 12, 1999

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

Dear Sir or Madam,

The purpose of this letter is to express the support of the Chemical Emergency Preparedness and Prevention Office (CEPPO) of the United States Environmental Protection Agency (EPA) for the proposed rule titled "Domestic Licensing of Special Nuclear Material; Possession of a Critical Mass of Special Nuclear Material."

CEPPO is the EPA headquarters office responsible for developing, coordinating, implementing, and managing EPA's emergency preparedness, accident prevention, and public right-to-know activities. In this capacity, CEPPO implements section 112(r) of the Clean Air Act, which requires EPA to promulgate regulations for chemical accident prevention at U.S. stationary sources. These regulations are contained in 40 CFR part 68, and require facilities holding more than a threshold quantity of any of 140 listed chemicals in a process to implement a risk management program (RMP). Section 112(r) of the Clean Air Act also contains a "general duty" clause (112(r)(1)), which requires owners and operators of facilities handling any extremely hazardous substance to identify hazards which may result from accidental releases of such substances, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

Some NRC-licensed facilities subject to the proposed rule are likely to be subject 40 CFR part 68 or the general duty clause of CAA section 112(r)(1), or both. The Commission has made general reference to this fact in the preamble of the proposed rule:

"The requirements and provisions in Subpart H are in addition to, and not a substitute for, other applicable requirements, including those of the U.S. Environmental Protection Agency (EPA) and the U.S. Department of Labor, OSHA. The requirements being added by NRC only apply to NRC's areas of responsibility (radiological safety and chemical safety directly related to licensed radioactive material). In this regard, the requirements for hazards and accident analyses that NRC is adding are intended to complement and be consistent with the parallel OSHA and EPA regulations."

EPA agrees with the Commission that the proposed rule is entirely consistent with EPA's RMP regulations and the general duty clause of the Clean Air Act, and contains appropriate complementary safety measures for facilities possessing a critical mass of special nuclear material. If you have any further questions concerning our comments on the proposed rule, please contact James Belke of my staff at (202) 260-7314.

Sincerely,

Jim Makris, Director
Chemical Emergency Preparedness and
Prevention Office