

January 31, 2001

ALL AGREEMENT STATES
MINNESOTA, PENNSYLVANIA, WISCONSIN

**PROGRAM MANAGEMENT INFORMATION: TECHNICAL CONFERENCING FORUM-
REQUEST FOR COMMENTS ON PART 40 DRAFT PROPOSED RULEMAKING PLAN
(STP- 01-007)**

The U.S. Nuclear Regulatory Commission (NRC) is in the process of developing a rulemaking plan to address the distribution of source material to persons exempt from licensing and to general licensees, in a manner intended to make Part 40 in Title 10 of the Code of Federal Regulations (CFR) more risk-informed.

A draft proposed rulemaking plan, "10 CFR Part 40: Distribution of Source Material to Exempt Persons and to General Licensees and Revision of § 40.22 General License," has been uploaded to the Technical Conference Forum (TCF). Your review and comment are invited on this draft by March 2, 2001. The draft proposed rulemaking plan addresses options to revise 10 CFR Part 40. In particular, we are interested in whether Options 4 and 5 are sufficiently distinct to warrant separation, or whether they should be combined.

Additionally, we are requesting the Organization of Agreement States and the State of Colorado to comment on the acceptability of the staff's plan to resolve their previously submitted petition for rulemaking (PRM 40-27) or if they believe that it should be handled separately from this rulemaking effort.

Finally, two sections, "The Office of General Counsel (OGC) Legal Analysis" and "Application of Risk-informed Screening Criteria" are incomplete at this time. The first item is a legal analysis of the proposed rulemaking plan by our OGC. The second item will be a summary of how this rulemaking plan will meet the newly instituted screening criteria in the Office of Nuclear Material Safety and Safeguards (NMSS) for new actions. The omission of these sections should not impact any comments that you may have.

The TCF can only be accessed by the Agreement States having a unique user name and password, which were last updated via All Agreement States letter SP-99-027. Please provide any comments on the draft directly to Gary C. Comfort, Division of Industrial and Medical Nuclear Safety, NMSS, at 301-415-8106 or by Internet at GCC1@NRC.GOV with a copy to the point of contact listed below.

Due to its pre-decisional nature, this document is exempt from public disclosure under NRC rules. We request that you limit distribution to your staff and not release the document publicly. If this document is released, please inform me or the individual named below within 24 hours. The draft proposed rulemaking plan can be accessed through the TCF subsystem at <http://techconf.llnl.gov/cgi-states/topics>, using your appropriate user name and password.

Thank you for your attention to this matter. If you have any questions regarding this correspondence, please contact me or the individual named below.

POINT OF CONTACT: Kevin Hsueh INTERNET: KPH@NRC.GOV
TELEPHONE: (301) 415-2598 FAX: (301) 415-3502

This information request has been approved by OMB 3150-0029, expiration 04/30/01. The estimated burden per response to comply with this voluntary collection request is 6 hour(s). Forward any comments regarding the burden estimate to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Paperwork Reduction Project (3150-0029), Office of Management and Budget, Washington, DC 20503. If a document does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information.

/RA by Kathleen N. Schneider Acting for/

Frederick C. Combs, Deputy Director
Office of State and Tribal Program

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