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November 7, 2002

DOCKET NUMBER
PROPOSED RULE PR 40
(67FR 55175)

November 8, 2002 (10:39AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Secretary, U.S. Nuclear Regulatory Commission (NRC)
Attention: Chairman Meserve,
Rulemakings & Adjudications Staff
Washington, D.C. 20555-0001

Dear Chairman Meserve, Secretary and Rulemaking Staff:

We are writing to urge that the NRC reject Proposed Rule Amending 10 CFR Part 40, which allows transfer of radioactive materials by disposal in unlicensed landfills, and may result in excessive exposure of the public to uranium, thorium, and other radioactive source materials in violation of the national Environmental Policy Act (NEPA). Adoption of this rule is also inconsistent with the National Contingency Plan, and may result in new Superfund or state hazardous materials release cleanups, as well as a broad range of environmental and human health impacts.

The current rule, setting a threshold of 0.05% fissionable material, below which such transfers would be allowed, was based exclusively on economic and practical considerations, without regard to public health and safety, purportedly the stated purpose of the amendment.

NRC has admitted that the proposed action would potentially result in cancer risks far in excess of the range allowable under National Contingency Plan guidelines, yet based their findings on false and misleading statements which are a serious violation of the Administrative Procedures Act. In the Federal Register Notice, NRC falsely claimed to have made an Environmental Assessment which assesses the health and environmental impacts, alternatives and mitigation measures of such transfers. It also claimed to have made a "Finding of No Significant Impact" in support of the proposed rule. In fact, there is no administrative record that either document was ever prepared, or that either was made available for review or comment.

We urge that there be transparency in the NRC's rulemaking process, thereby fulfilling the laudable public protection purposes for which such rules are ostensibly adopted. This would include the demonstrable presentation of an Environmental Impact Statement which addresses impacts, risk assessments, alternatives and mitigation measures of such transfers, in conformity with NEPA.

It would also include the adoption of a single, uniform standard governing permissible amounts of radiation dose, exposure and cancer risk from releases at disposal facilities, and for approval of same only at sites which are licensed. To allow otherwise would be effectively to make such sites the focus of Superfund and state hazardous waste cleanups.

We support a rule which ensures that transfers and disposal of uranium, thorium and other source materials do not result in releases of radionuclides exceeding 15 mrem/year, or in carcinogenic risks exceeding that which is allowed under the National Contingency Plan, 10 CFR 300. We also support the adoption of more stringent state standards for same, including those that address groundwater protections.

In addition to addressing transfers under this rule, we urge that NRC also address related proposals for license termination, and cleanup of tailing facilities, and that they be made subject to the same standards mandated under 42 USC 9621(d) for the protection of human health and the environment.

Sincerely,

A handwritten signature in black ink, appearing to be 'Leslie Seff', is written over a horizontal line. The signature is stylized and somewhat cursive.

Leslie Seff, Director
Sustainable Energy Project
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