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OFFICE OF SECRETARY
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ATTN: Rulemakings and Adjudications Staff

Gentlemen:

From the NRC web site I find that the NRC's mission is to regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. However I find the current proposal to §40.51 is another piecemeal attempt to promulgate regulations that appear to allow increased exposure to the public. In fact in this case it is interesting that the "unimportant quantities" of radioactive material may cause more exposure to the public than the important quantities that must be licensed. As has been pointed out to the Commission numerous times the establishment of the "unimportant quantities" was not done on the basis of risk or hazard. In fact some years ago the Commission indicated that it was going to revisit the question of how and why many of the exemptions to the regulations were established and move to make a rational assessment of needed changes. In light of the "performance based" policy of the Commission this review should be initiated immediately with the charge to staff to make the necessary changes in the regulations to ensure that all standards provide the same level of protection to the public and environment. It just does not make any sense whatsoever to regulate one source of exposure to a higher level of risk than another. In this case a licensee could be cleaning up a site to reduce some future intruders potential exposure to less than 25 mrem/yr exposure and shipping off site the unimportant quantities of radioactive material to a site where an individual could get 100 mrem/yr. This does not seem rational or protective of public health.

I also find the Finding of No Significant Environmental Impact to be seriously lacking in substance. The analysis done in support of the finding is totally lacking in merit. The reality is if this action were done on the basis of risk, most transfers of unimportant quantities would be restricted to protect the environment. In fact if the staff were not constrained by the Commission's SRM and they were more broadly directed to determine a risk based level at which this material could be released their findings would be much different, i.e., the concentrations of radioactive material would be much lower than permitted here.

In reality the only justification for this action is that the material in question has less impact than the vast quantities of material that are exempted by the current regulations. However, that is little consolation for those trying to assure the protection of the public from the hazards of radiation.

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It is clear from all the information that has been generated in studies of the 0.05 "unimportant quantities" exemption that it is not based on health and safety and in fact it is clear that a safe exemption level is considerably lower than 0.05 percent source material. Thus this effort should be abandoned. However a new effort should be initiated to establish the level at which regulatory control is necessary to assure protection of the public and environment from the hazards of radiation (all radiation). This effort should start with the basis of regulatory control being zero exposure to radiation as its initial premise with examples of all the types of activities that would be curtailed or restricted by this level as well as the projected costs that would be expected by this level of regulatory control, e.g., no burial of people, containment of rainwater, no filling of holes with the dirt dug from them, etc. Based on my experience with this approach the public quickly understands the need for the establishment of a more rational approach to radiation protection. At that point it is possible to begin to discuss the establishment of a more rational level at which radiation is regulated. One of the basic tenets of this approach has to be the recognition that below the level at which radiation is regulated no regulatory action will be necessary or appropriate, while above the selected level, appropriate regulatory action will be imposed.

This approach gives the public, activists, nuclear industry, coal industry, oil industry, mining industry, environmental community, medical community, regulators and others the opportunity to engage in the establishment of the level at which radiation is regulated. All radiation, all sources, irrespective of origin (manmade or natural) or pedigree. It provides a unique opportunity for all to participate and to establish a consistent framework to assure the protection of the public and environment from radiation. It will allow the regulators to focus on those issues that actually affect the exposure of the public to the greatest amounts of radiation versus the current scheme that forces regulators to focus a great amount of resources on activities that have little or no impact of public exposure while fewer resources are available for attacking the areas where the public actually receives radiation exposure.

Sincerely,

Michael H. Mobley