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PROPOSED RULE 40
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USNRC

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Chairman Richard Meserve
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

November 12, 2002 (3:35PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Secretary, U.S Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff

Re: Comment on Proposed Rule on Transfers of Source Materials by Specific Licensees

Dear Chairman Meserve:

This letter provides comments from Envirocare of Utah, Inc. (Envirocare) regarding the proposed rulemaking published in the August 28, 2002 Federal Register (Volume 67, Number 167). The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require NRC approval for transfers from licensees of unimportant quantities of source material (less than 0.05 percent uranium and thorium by weight) to persons exempt from licensing. The purpose of this proposed rule is to ensure the regulations for transfers of unimportant quantities of source material provide adequate protection to human health and safety of the general public.

Envirocare is supportive of the direction this proposed rule is taking. It is Envirocare's position that the NRC has a leadership role in setting health-based standards and in seeing that these standards are applied consistently throughout the country. This proposed rule would require licensees to demonstrate compliance with the NRC dose limits prior to any transfer of this material. Several agencies including the International Atomic Energy Agency (IAEA) and the Environmental Protection Agency (EPA) have stated their position regarding levels of safe doses. It is recommended that the NRC review these positions, in addition to NRC regulations, for determining the dose limit that will be used for approval of such transfers. These and other references are provided in Attachment A. Envirocare encourages that NRC to work with the States and other organizations to develop agreement on what health based standard should be set.

Envirocare appreciates the opportunity to comment on this proposed rulemaking. We support the NRC in its responsibility to ensure the health and safety of the general public.

Sincerely,

Kenneth L. Alkema
Senior Vice President of Compliance and Licensing

Attachment

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SECY-02

ATTACHMENT A

The National Academy of Sciences, Board on Radioactive Waste Management, Study Prospectus, "Improving Practices for Regulating and Managing Low-Activity Radioactive Waste," August 2002.

SECY 99-259, "Exemption in 10 CFR Part 40 for Materials Less Than 0.05 Percent Source Material Options and Other Issues Concerning the Control of Source Material," and SECY 01-0051, "Status Report on Jurisdictional Working Group."

"Systematic Radiological Assessment of Exemptions for Source and Byproduct Materials," NUREG-1717, June 2001, Advanced Technologies and Laboratories International, Inc. ("Options Paper: Exemption in 10 CFR 40 for <0.05% Source Material").

See GAO/RCED-00-152, "Radiation Standards -- Scientific Basis Inconclusive, and EPA and NRC Disagreement Continues." Note, however, that NRC and EPA have signed an MOU in October 2002 whereby EPA has agreed to defer to NRC's standard for the decommissioning of NRC licensed sites.

Conference of Radiation Control Program Directors, Position and Resolution "On Exemptions From Regulatory Control," May 21, 1989.

National Academy of Sciences, "The Disposition Dilemma Controlling the Release of Solid Materials from Nuclear Regulatory Commission-Licensed Facilities," March 2002.