

March 4, 2003

The Honorable Mark Udall
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Udall:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter of November 12, 2002. In your letter, you provide comments on NRC's Proposed Rulemaking concerning transfers of low concentrations of radioactive "source" material to persons exempt from NRC licensing requirements. In particular, you expressed concern that the proposed rule focuses on one category of waste, materials containing uranium and thorium, and that radiation doses permitted for transfers are higher than levels allowed by NRC regulations associated with the management and disposal of other radioactive waste.

The proposed rule does address only the regulation of source material (i.e., uranium and thorium) and does not address disposition of other radioactive materials. Other materials, such as low-level radioactive waste materials, are covered in other parts of our regulations. We decided to pursue a narrowly focused rulemaking because we have information to suggest that, under certain limited circumstances involving transfers of low concentrations of source material, members of the public could be exposed to doses that exceed the nationally recognized dose limit of 100 mrem/yr. The proposed changes to 10 C.F.R. Part 40 would seek to ensure that overexposures do not occur.

As to your concern that the proposed rule would allow radiation doses higher than levels allowed for the management and disposal of other radioactive material, let me say that proposed rule is intended to do just the opposite. The rule as currently incorporated into 10 CFR Part 40 can be interpreted to allow a specific licensee to make transfers of source material to persons exempt from the requirements of a license without notifying NRC. The intent of the proposed rule is make the rule language more consistent with the NRC practice of requiring a licensee to request approval prior to such transfers. Most approved transfers for disposal to appropriate facilities are expected to result in exposures to the public at levels well below 25 mrem per year. However, because the disposal facilities to which these transfers are envisioned to occur are expected to have controls in place to protect against exposures to other radioactive sources, the Commission is willing to approve some transfers that, under rare circumstances, could result in exposures to a limited fraction of the public at levels below 100 mrem per year. Thus, we believe the approach described in the proposed rule provides for adequate protection of the public.

As we prepare a final rulemaking, your comments on the proposed rule will be given careful review and consideration. If you have any further comments or questions, please contact me.

Sincerely,

/RA/

Richard A. Meserve