Conference of Radiation Control Program Directors, Inc.

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March 1, 2006

Charles Miller, Ph.D, Director
Division of Industrial and Medical Nuclear Safety
Mailstop 8 F5
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: Draft Proposed Rule: 10 CFR Parts 20, 30, 31, 32, 35, 40, "Expanded Definition of Byproduct Material" (STP-06-001)

As Chair of the Conference of Radiation Control Program Directors (CRCPD), I am writing on behalf of the CRCPD membership and Board of Directors to provide comments on the subject document. As you know, the CRCPD has facilitated participation of State representatives on the Naturally-Occurring & Accelerator-Produced Radioactive Material (NARM) Task Force and NARM Rulemaking Working Group (WG), as well as the joint Steering Committee overseeing both the NARM Task Force and NARM Rulemaking WG. Since approximately February 2, 2006, the State representatives on the NARM Task Force, NARM Rulemaking WG and Steering Committee have all expressed very serious concerns to the CRCPD Board of Directors regarding the proposed compatibility/adequacy designation for the definition of "Byproduct Material" (and other definitions included in the subject draft proposed rule).

After discussion, the CRCPD Board of Directors strongly supports the comments of the Organization of Agreement States (OAS) Board submitted to you February 27, 2006, by Barbara Hamrick, Chair of OAS. We believe Compatibility Level D is the only choice for this rule. Any other choice would be a contradiction of the spirit of EPAct and seriously impact States. We are very disappointed that it appears the statements made in the EPAct requiring "The Commission…to the maximum extent practicable--(i) cooperate with States; and (ii) use model State standards in existence on the date of enactment of this Act" are not being met. We hoped NRC would work to bring its regulations into conformance with the CRCPD model Suggested State Regulations (SSRs), since State regulations based on these have, for over 40 years, provided for the safe control of sources that will only now, after the enactment of the EPAct, come under the jurisdiction of the NRC.

Thank you for the opportunity to provide this additional input to you on this matter. We hope the comments from OAS and CRCPD will be considered and a decision made that truly meets the spirit of EPAct and acknowledges the expertise and experience of States in regulating NARM. Please do not hesitate to contact me at 360-236-3251 or debra.mcbaugh@doh.wa.gov

Sincerely,

Debra McBaugh, Chair
Conference of Radiation Control Program Directors, Inc.