



# State of Utah

## DEPARTMENT OF ENVIRONMENTAL QUALITY DIVISION OF RADIATION CONTROL

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September 15, 1999

The Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

DOCKET NUMBER  
PETITION RULE PRM 40-27  
(64FR36615)

Attention: Rulemaking and Adjudications Staff

RE: Comments on Petition for Rulemaking

As Director of the Division of Radiation Control of the Utah Department of Environmental Quality, I am submitting comments on a petition for rulemaking. The petition, dated May 10, 1999, was submitted by the State of Colorado and the Officers of the Organization of Agreement States. The notice of receipt for this petition for rulemaking was published in the Federal Register on July 7, 1999 (64 Fed. Reg. 36615). The docket number for this petition is PRM-40-27.

The petitioners ask that the Nuclear Regulatory Commission restrict the exemption from 10 CFR parts 19 and 20 for general licensees that appears at 10 CFR 40.22(b). Without hesitation, I support the petition for rulemaking and I support the proposed text as printed in the notice of receipt.

Our own involvement with the general license for source material found in 10 CFR 40.22 is that the Commission's finding that general source material license activities in the specified quantities "can be conducted without any unreasonable hazard to life or property" [25 Fed. Reg. 8619 (Sep. 7, 1960)] is not supported by industry experience. This was plainly evident in the matter of Wrangler Laboratories, Larsen Laboratories, Orion Chemical Company and John P. Larsen [ASLBP No. 89-582-01-SC, cited as 30 NRC 746 (1989)]. In this case, the panel of administrative judges wrote, "... we agree with the Staff that the Licensees have indeed carried on certain of their activities in a manner contrary not only to proper industrial practices but also to the public health and safety" (NUREG-0750, Vol. 30, No. 6, page 750).

Further review of the Atomic Safety and Licensing Board (ASLB) issuance indicates that additional rulemaking actions are needed. The administrative judges also wrote, "We agree that a specific license is appropriate for the type of activities involved, but it is not mandated by the regulations as they now exist. We reiterate our recommendation that the regulations be modified to exclude from the general-license authorization activities of the type in which the Licensees seek to participate" (NUREG-0750, Vol. 30, No. 6, pages 760-761). In fact, the administrative judges strongly urged the

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Commission to initiate rulemaking proceedings to delete activities of the type in which the Licensees participated from the general license authorization. I ask that NRC staff act upon the ASLB recommendation as stated above. Had this been done when the ASLB issuance was made (December 22, 1989), the State of Colorado may not have experienced the problems outlined in the petition for rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "William J. Sinclair". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

William J. Sinclair, Director  
Division of Radiation Control