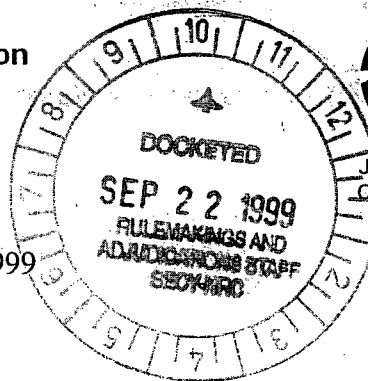


New York State Department of Environmental Conservation
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John P. Cahill
Commissioner

September 20, 1999

Annette L. Vietti-Cook
Secretary
US Nuclear Regulatory Commission
Washington, DC 20555

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

Attn: Rulemakings and Adjudications Staff

Re: State of Colorado and Organization of Agreement States
Petition for Rulemaking [64 FR 36615-36617]

Dear Secretary Vietti-Cook:

This responds to the Notice of Receipt of Petition for Rulemaking published on July 7, 1999 in the Federal Register. The State of Colorado and the Officers of the Organization of Agreement States have petitioned the US Nuclear Regulatory Commission to amend 10 CFR 40 to limit the extent to which source material general licensees are exempted from certain provisions in 10 CFR Parts 19, 20 and 21.

The New York State Department of Environmental Conservation supports this Petition for Rulemaking, particularly with respect to the disposal of wastes containing general licensed source material and the release of such material to the environment. It has been our experience that parties possessing generally licenced source material believe there are no restrictions on disposal of this material or on its release to the atmosphere. Indeed, the current regulations, with no restrictions on transfer of this material, imply that it can be disposed of as ordinary solid waste. This can result in unregulated emissions and improper disposal of radioactive material.

We agree with the petitioner's contention that an amendment of 10 CFR 40 is needed, and we urge the US Nuclear Regulatory Commission to work with Agreement States in developing the proposed rule.

Thank you for the opportunity to comment on this petition.

Sincerely,

Paul J. Merges

Paul J. Merges, Ph.D.
Director
Bureau of Radiation & Hazardous Site Management
Division of Solid & Hazardous Materials

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Acknowledged by card

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cc: J. Jacobi, Colorado Department of Public Health and Environment
S. Marshall, President, Organization of Agreement States

SECY-02