



STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES DOCKETED
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PETITION RULE PRM 40-27
(64FR36615)

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATION STAFF

Donald L. Shumway
Commissioner

Dianne Luby
Director

September 20, 1999

U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

ATTN: Secretary

Gentlemen:

The State of New Hampshire, Department of Health and Human Services' Bureau of Radiological Health, wishes to express its agreement with petition to the U.S. Nuclear Regulatory Commission (NRC) for rulemaking docketed as *PRM-40-27*, and submitted by the Organization of Agreement States and the State of Colorado, contending that any licensee who has the potential to exceed any dose limits or who generates a radiation area as defined in 10 CFR part 20 should be required to meet the radiation protection and worker notification requirements in both Parts 19 and 20. We urge the NRC to consider amending its regulations pertaining to source material general licensees in 10 CFR part 40. Specifically, *10 CFR 40.22(b) should be amended to revoke the exemption from 10 CFR parts 19 and 20 for source material general licensees who could exceed public dose limits or dose equivalent limits for an embryo/fetus, and to require such licensees to monitor radiation exposure to personnel and post radiation areas.*

New Hampshire agrees with the petitioners' position that the NRC regulations codified at 10 CFR 40.22(b) be modified to read:

(b) Persons who receive, possess, use, or transfer source material pursuant to the general license issued in paragraph (a) of this section are exempt from the provisions of parts 19, 20, and 21, of this chapter to the extent that such receipt, possession, use or transfer are within the terms of such general license: Provided, however, That this exemption shall not be deemed to apply to any such person:

- (1) Who is also in possession of source material under a specific license issued pursuant to this part;
- (2) Whose use of source material could exceed the occupational dose limits in Sec. 20.1201 through Sec. 20.1208;
- (3) Whose use of source material would require the use of personnel monitoring under Sec. 20.1502 (a), (b), or (c); or
- (4) Whose operation requires posting under Sec. 20.1902.

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Acknowledged by card

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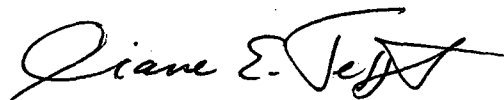
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We agree with the petitioners' contention that generally licensed quantities of source material may not have been regarded as a health and safety hazard when the exemption for source material licensees was enacted. We also support the petitioner's contention that after the exemption became effective, industry experience has revealed that source material general licensees can expose workers to levels of radiation that require monitoring, dispose of radioactive materials in a manner that would not be acceptable for other licensees, produce contamination that exceeds release limits, and potentially exceed public dose limits to individuals other than those working at their facilities. We agree with the following contentions of the petitioners: that no basis exists for exempting source material general licensees from compliance with part 20 requirements pertaining to dose limits or posting of radiation areas; that if a radiation hazard exists that would require most licensees to implement corrective measures, all licensees who create similar hazards should be required to eliminate the hazard; that any individual who uses radioactive materials and the general public should be protected from unsafe and unnecessary exposure to radiation resulting from licensed activities; that individuals who participate in licensed activities who may receive exposures that exceed the public dose limits in 10 CFR part 20 should be instructed as to their rights as radiation workers and the necessary procedures for safe usage of radioactive materials; that the NRC exemption for source material general licensees permits potentially hazardous radioactive materials to be transported into States without the knowledge or control of State radiation control programs.

In conclusion, New Hampshire agrees with those conclusions of the petitioners, that 10 CFR 40.22(b) provides a blanket exemption for source material general licensees from the radiation protection and worker notification and instruction requirements contained in 10 CFR parts 19 and 20; and that no basis for this exemption exists because it allows these licensees to exceed currently specified dose limits, create areas where individuals may be exposed to significant levels of radiation, and dispose of radioactive waste in ways that are not permitted for other licensees. New Hampshire concurs with the petitioners request that the exemption in 10 CFR 40.22(b) be restricted as detailed in their petition for rulemaking to exclude source material general licensees who could exceed public dose limits or dose equivalent limits for an embryo/fetus or would require personnel monitoring or posting of a radiation area.

We appreciate this opportunity to provide these comments on this important matter.

Sincerely,



Diane E. Tefft, Administrator
Bureau of Radiological Health
Office of Community & Public Health