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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

October 8, 2010

United States  
Nuclear Regulatory Commission  
Washington, D.C.

RE: Comments, Proposed "Physical Protection of Byproduct Material"

Gentlemen:

After a brief review of the proposed rule on "Physical Protection of Byproduct Material"; I cannot but wonder if the actions of the present administration, in exercising increased government involvement, has influenced the USNRC to seek greater levels of proposed security control by the licensees. I also wonder if the impact upon the licensees and the interaction of associated personnel and agencies was ever considered. This is a comprehensive program that will place burdens relative to the need for additional personnel, time and material expenses. In my opinion, the number of licensees, already greatly diminished by past regulations, would probably drop at least another 25% to 30%.

It is worth noting that licensees are usually in business to turn a profit; and, if the profit is not there, the need for licensing is simply not worthwhile. By the same token, businesses must remain competitive, or if the work schedule cannot support maintaining the license, decisions must be made. Throughout the document, there are references the fact that the USNRC is authorized in seeking these changes; and we cannot deny that fact. We would, however, question the justification for adding even more administrative burdens upon the licensees. Correct me if I am wrong, but the post 911 security problems were based upon possible scenarios as opposed to actual events. This has not significantly changed, yet the Commission is calling for even more security measures to prevent the recurrence of something that has not actually taken place.

Background checks and fingerprinting has not been a problem. The added factors to be required on the background checks (i.e. credit checks) is a little over the top. The identification of radiographic and unescorted access personnel has not been a problem; but the addition of specific training for the entire security program must be considered as another overhead item.

The shipping requirements are somewhat demanding; but it is apparent that the authorized shippers will have added responsibilities; and we assume that the Commission will communicate with the shipping agencies accordingly. The addition of GPS capabilities, when combined with vehicle/trailer alarms with remote features will be an added expense.

The notification requirements could very well present difficulties for the licensee as well as LLEA's and municipal, county, and state officials. This was discussed prior to 911; and it was determined that this requirement could be prohibitive. Licensees are already

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required to negotiate and pay for reciprocity, as well as inform the applicable agency (usually a division of the state board of health) as to when and where operations are planned and the duration of the project. To expand this requirement to include local authorities is asking a lot. If contact is to be extended to the Offices of the Governors, we also assume that the Commission will establish the proper procedure and identify the individual gubernatorial liaisons.

The proposed actions are geared toward licensees; but many of the blanks must be filled in by regulatory personnel, shipping agencies, law enforcement at all levels; and, of course, the fifty governors. I would propose that the USNRC – who has the available resources - develop programs and information packets to all involved so that we can get on the same page.

I do not anticipate that the proposed Part 37 will be delayed or modified to any significant degree (especially with a 250-page **Implementation Guidance** already in print); but I would ask that the full impact of the requirements, as well as the added responsibilities of the Commission, be considered. As noted above, it is my opinion that the number of licensees willing to undertake the added burdens would be significantly reduced.

Respectfully submitted,

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Corporate RSO  
T&R Official