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Submitter Information

Name: Katie Sweeney

General Comment

Attached please find the comments of the National Mining Association regarding the three petitions for rulemaking received by the Nuclear Regulatory Commission regarding the agency's standards for protection against radiation.

Attachments

Final LNT comments

KATIE SWEENEY
General Counsel

November 19, 2015

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-001

ATTN: Rulemaking and Adjudications Staff

Dear Sir/Madam:

RE: Petition for Rulemaking – Linear No-Threshold Model and Standards for Protection against Radiation

The National Mining Association (NMA) appreciates the opportunity to submit comments on the three petitions for rulemaking received by the Nuclear Regulatory Commission (NRC) requesting that the agency amend its "Standards for Protection Against Radiation" regulations and change the basis of those regulations from the linear no-threshold (LNT) model of radiation protection to the radiation hormesis model. 80 Fed. Reg. 35870 (June 23, 2015). Generally, NMA believes the petitions have scientific merit and that NRC should undertake a review of the applicability of the LNT model and the hormesis model to establish reasonable and justifiable risk-based standards for radiation protection.

NMA is the national trade association representing the producers of most of America's coal, metals, including uranium, industrial and agricultural minerals; the manufactures of mining and mineral processing machinery, equipment and supplies; and engineering, transportation, financial and other businesses that serve the mining industry. NMA's uranium recovery members include current conventional and/or in situ leach uranium recovery (ISR) licensees, as well as potential future conventional and/or ISR license applicants. NMA's uranium recovery members are subject to NRC regulations based on the LNT model and therefore, have a significant interest in these petitions.

As a preliminary matter, NMA endorses the comments of the Wyoming Mining Association (WMA), including those of Dr. Nancy Standler that are incorporated in the WMA comments as appendix 9. The intention of the NMA comments is not to duplicate the WMA comments or the content of the three petitions, all of which provide more than sufficient scientific data to merit NRC undertaking a review of the applicability of the LNT model. Rather, these comments address the importance of risk-based regulations to ensure attention is focused on the greatest risks to the health and safety of the public and the environment. Inherent in risk-informed regulations is incorporation of sound science – a regulation cannot be risk-informed if the science on which it is predicated is flawed.

Importance of Risk-Informed Regulations

Risk-informed performance based regulation is good public policy as it promotes efficient use of already limited agency, licensee and other stakeholder resources. Because it requires a focus on higher risk Atomic Energy Act licensed activities, a risk-informed performance-based approach results in a more efficient and effective regulatory program that optimizes protections of public health, safety and the environment. Furthermore, risk-informed, performance based approaches have the potential to better educate and inform the public about risks associated with activities regulated by NRC.

NMA has strongly supported NRC's efforts to fully realize its goal to move toward more risk-informed, performance based approaches in its regulatory programs. In response to the 1993 Government Performance and Results Act, NRC developed a strategic plan in which the agency committed to move toward risk-informed, performance-based regulation. As a result of that strategic plan, when NRC proposes a new regulation, alternatives considered must include a performance-based alternative that enhances the focus on the effectiveness of the agency's regulatory programs. Over the years, NRC has continued to advance the risk-informed performance based regulation concept. See e.g., Staff Requirements - COMSECY-96-061 - *Risk Informed, Performance-Based Regulation* (DSI-12), April 15, 1997; *Use of Probabilistic Risk Assessment Methods in Nuclear Regulatory Activities; Final Policy Statement*, 60 Fed. Reg. 42622 (August 16, 1995); SECY-98-144, *White Paper on Risk-informed and Performance Based Regulation* (June 22, 1998)

Most recently, NRC established a task force for "Assessment of Options for More Holistic Risk-Informed, Performance-Based Regulatory Approach" to identify options and specific actions that the NRC could pursue to achieve a more comprehensive and holistic risk-informed, performance-based regulatory structure. Comments on the task force's efforts were due in 2014 and NMA used that opportunity to Identify and prioritize those areas that are either now, or can be made, with minimal additional effort/resources, amendable to a risk-informed, performance-based approach.

Risk-Informed Regulations Must Be Based on Sound Science

As noted in the WMA comments and the petitions, there are substantial references in the existing literature in support of the fact that the LNT model fails to accurately characterize radiation risks at low doses and that there may well be a threshold below which radiation does no harm and in fact hormesis exists.

Regulations must evolve to reflect advancements in scientific knowledge and regulations based on outdated or disproven science lack scientific merit and should be critically assessed, evaluated, and, if necessary, modified or rescinded. Continued reliance on the LNT model, in the absence of scientific support, distorts public perceptions about relative risk and misallocates scarce public and private resources toward minor and nonexistent hazards.

Conclusion

NRC is uniquely qualified to take a fresh look at the LNT model. As an independent regulatory agency created by an act of Congress and independent of the executive departments, NRC is meant to impose and enforce regulations free of political influence. Given the information provided by WMA and the petitioners, it appears adherence to the LNT model has been more a political calculation than a scientific one. NMA believes it is time to review the submitted information as well as any other pertinent scientific data and amend regulations in accordance with the results of NRC's review. Only by ensuring the use of sound science can NRC meet its objectives for risk-informed regulations.

NMA appreciates the opportunity to comment on the petitions. If you have any questions, please contact me at ksweeney@nma.org or (202)463-2627.

Sincerely,

Katie Sweeney