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31 January 1990

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

Dear Sir,

This letter is in response to your notice of proposed rule making on ASNT Certification of Industrial Radiographers published in the Federal Register of 9 November 1989 (54 FR 47089).

From the public record, it is quite clear that the US Nuclear Regulatory Commission is concerned about the safety record of the industrial radiography industry. In a Notice published in the Federal Register on 10 January 1990 (55 FR 843), it states that the NRC has been concerned about the number of radiation overexposures among radiographers for several years. As stated in the supplementary information presented with this current proposed rule, the US Nuclear Regulatory Commission is determined to make every effort to improve the radiation safety record in industrial radiography. I applaud your efforts in this direction. However, I believe that the proposal presented is contrary to that objective.

Under the present regulations, a licensee must submit to the NRC a description of its training program, including a detailed description of the topics to be covered, the qualifications of the instructors and the means to be used to determine the radiographer's knowledge and competence. The NRC has the opportunity to make a judgement of the adequacy of the proposed training program and to require the changes necessary to meet its criteria. Subsequently, through the inspection program, the NRC has the opportunity to review the implementation of this training program for adequacy and to require any changes deemed necessary. This proposed rule removes the training and qualification of radiographers from NRC oversight and places it completely in the hands of the industry being regulated. (The proposal is so bold as to state that this removal of NRC oversight will result in a cost savings to the industry!) Whereas the NRC is determined to make every effort to improve the radiation safety record in industrial radiography, and whereas the NRC is not presently satisfied with the safety performance of the radiography industry, it is quite difficult to understand the logic behind the proposal to give up its direct oversight of such a vital aspect as training and relinquish it to self-regulation by the industry.



The problem is further exacerbated by the details of the proposal. The plan is to recognize the certification program of the American Society for Nondestructive Testing (ASNT). However, such a certification program does not, in reality, exist. Although a written program has been drafted, no person has been certified under this program. There is no assurance that such a certification program will be implemented in a manner meeting the objectives of the NRC. There is no NRC control over changes to the program after the rule making process. Furthermore, the ASNT has no history of commitment to radiation safety and has made no noted contributions to the radiation safety of the radiography industry. The purpose of the organization, as stated in its constitution, makes no reference to radiation safety.

One may argue that the proposed ASNT program is similar to the certification program already in use in the State of Texas and conducted by the State of Texas Radiation Control Agency. However, administration of a program by a regulatory agency responsible for radiation safety is quite different to one administered by an industry organization. Prudence would dictate that, as a minimum, the NRC would monitor such a voluntary certification program for several years to assure its adequacy and measure its success in improving radiation safety before granting it recognition. Granting total control over the qualification of radiographers to an untried and untested program administered by an organization new to radiation safety and controlled by the industry whose radiation safety record is unsatisfactory to the NRC is a serious mistake.

The published proposal is misleading. Although it clearly states that the NRC will recognize the ASNT certification program, it does not delineate this program, nor does it adequately describe the ramifications of the program. The ASNT certification program places an extensive number of additional requirements on the radiographer above those presently required by the NRC, many of which have no bearing on radiation safety. The requirement that the radiographer comply with the ASNT certification program code of conduct is particularly onerous. This requires additional knowledge on the part of the radiographer, invokes additional governmental reporting requirements (presumably approved by OMB?) and places requirements on personnel conduct above any such requirements of the NRC. The application of sanctions, including revocation of certification, and thereby the right to participate in NRC licensed activities, rests with the industry, in the form of



the ASNT certification committee. This committee is comprised of individuals who are involved in the radiography business. Under such a system, one can find himself being subjected to employment threatening decisions by his business competitors. One's certification, recertification and sanction can be decided by individuals who have a vested economic interest in the outcome. This hardly portends objective regulation.

Furthermore, the ASNT certification program requires the applicant to release the ASNT from any and all liabilities, claims, demands or causes of action whatsoever as a result of his certification. The individual is required to indemnify the ASNT and hold it harmless for any claims by third parties against ASNT as a result of their certification. The cost of such indemnification is not insignificant. However, it does not appear to have been included in the NRC assessment of the economic impact of this rule making. It is also not clear where the NRC receives the legal authority to require an individual to indemnify a private organization in order to participate in an NRC licensed activity.

The fact that these, and other, requirements related to the ASNT certification program were not appended to the published rule making is misleading. Applying these requirements by reference, without subjecting them to the publication requirements of the rule making process seems less than forthright. However, since this has occurred, I request that you hold a public hearing on this rule making to provide a forum for a full airing of the ramifications of this proposal and to subject it to complete public scrutiny.

Many of the comments made above could be dismissed by the argument that the proposal presented is for voluntary certification by ASNT and that a radiography licensee has the opportunity to continue with the existing program. However, the NRC indicates in this proposal its consideration for making this a mandatory program in a subsequent rule making. This makes the existing proposal all the more onerous.

In May of 1982, the NRC issued an advance notice of proposed rule making on the topic of certification of industrial radiographers (47FR19152). The NRC received a number of written comments on this notice. It also held a series of public meetings about this. The NRC finally withdrew this proposal in September of 1985 (50FR38011). In its notice of withdrawal of this rule making, the NRC stated "the Commission has concluded that there is no



consensus that a certification program for radiographers would reduce the number of overexposures". Nothing is presented in this proposal to demonstrate why the NRC has completely reversed its earlier conclusion.

If the NRC now feels so strongly that a certification program is necessary, then it should conduct the program itself or have it conducted by another governmental regulatory agency. If a program were conducted by a governmental regulatory agency, such as the NRC or an agreement state radiation control program, then there would be no question as to the dedication of the program to radiation safety. The program would be conducted by experienced radiation safety professionals with no vested economic interest in the conduct of the program, and by individuals motivated toward improved industry safety.

I believe that NRC relinquishment of the oversight of radiographer training and qualification, this vital aspect of radiation safety, in favor of an untried and unproven program administered by an organization new to radiation safety and controlled by the regulated industry whose radiation safety record is unsatisfactory to the NRC is a grave mistake. I urge you to withdraw this proposal.

Sincerely,



John J. Munro III