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OFFICE OF REGULATORY  
DOCKETING

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

Subject: Comments on U.S. Nuclear Regulatory Commission's Proposed  
Amendments to 10 CFR Part 20 - Radiological Criteria for Decommissioning.

Dear Don:

Enclosed are the my comments regarding new radiological criteria for decommissioning. I continue to support the efforts of the Commission in developing these rules. I also think that the framework for gathering public and technical information through the participatory workshop process has been helpful, and commend the NRC for taking this route. There are certain aspects of the staff proposal, however, that I think could be improved. My comments are below.

1. Definitions

- A. I am concerned about the definition of the "Critical Group". As explained on page 18 of the preamble the critical group is the most highly exposed group of individuals. The individual dose would then be calculated based on the average member of the critical group. With this definition, there is certain to be a distribution of individual doses which may result in the maximally exposed individual receiving an unacceptably higher dose. I therefore recommend that the regulation should also have a dose limit for the maximally exposed individual. This could be slightly greater (perhaps by 10 percent) than the dose limit for the average person.

2. Standards for Unrestricted Use

- A. I support the cleanup goal of 3 mrem/year.
- B. The 15 mrem dose limit is higher than the proposed BRC Policy in 1990 of 10 mrem/year. 10 mrem/yr equates to an estimated Lifetime Excess Cancer Risk of  $3.5 \times 10^{-4}$ , which is close to the highest risk level allowed by EPA in Superfund cleanup levels. I believe that 10 mrem/yr is the highest acceptable dose to the critical group. I also believe that 15 mrem/yr is the highest acceptable standard for a



maximally exposed individual. I am, however, cognizant of the problems of measuring compliance with this standard. The preamble states that a guidance document will be published. I strongly recommend that this document be subject to public review prior to its final adoption.

3. Variance for Restricted Use

- A. Page 62 of the preamble states that the proposed rule provides for the termination of the license and the release of a site under restricted conditions if the licensee can demonstrate that the use of land-use restrictions will provide reasonable assurance that the dose limit can be met. This is inconsistent with proposed Section 20.1405, as worded, in that the above criteria is conditional upon a showing of technical or financial inability to meet site release requirements, and financial assurances.

I recommend that the criteria for license termination under restricted conditions be broadened so that a strict financial or technical feasibility test is not necessarily a prerequisite for license termination. This would enable utilities (and their ratepayers) to choose whether to re-use the site for industrial or power generation, so long as the "critical group" does not receive a dose above the dose limit, and so long as occupational dose limits are met. Therefore, I suggest that 20.1405 be modified so that subsection (a) is conditioned upon meeting subsections (c) and (d), and subsection (b) is conditioned upon meeting subsections (c) and (d).

- B. I am concerned that this new regulatory framework not spur on a host of litigation. I recommend that "institutional controls" be defined more clearly because of potential problems surrounding this issue. For example, old industrial sites that were later used for parks, schools, and housing developments have later become the subject of litigation. Often, the original developer of the site recorded information in land transactions, but was held partially responsible for contamination problems which arose long after the transfer.

I recommend that the NRC define institutional controls, or as an alternative, issue policy guidance. Topics should include at least the following: the length of time for institutional controls; enforcement authority; conditions and obligations of licensee to ensure that controls are being upheld; and public participation requirements. I recommend the following: that the time frame be at least one-hundred years; that the licensee or its predecessor be obliged to monitor the land-use so that it complies with the institutional controls; that there is a clear enforcement authority; and, that the public involvement in establishing land-use goals be formalized (See comments on the SSAB below). I also recommend that a mere deed restriction be considered insufficient to meet the condition of Section 20.1405 (b).

- C. I recommend that Section 20.1405 (c) contain details as to what is meant by providing "sufficient financial assurance to enable an independent third party to assume and carry out responsibilities for

any necessary control and maintenance of the site." The rule needs to address the following: who will be assigned as beneficiary of the funds should they be required and the licensee is no in existence (e.g. state agency, EPA Regional Administrator, etc.); for what length of time is financial assurance expected to cover (e.g. 100 years, 1000 years, in perpetuity?); and, under what circumstances can the licensee self-insure. The Resource Conservation and Recovery Act (RCRA) regulations provided a model for post-closure financial assurance and I recommend that the NRC review these rules.

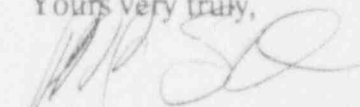
4. Public Participation

- A. The public should have a meaningful right to participate in decommissioning decisions. Public stakeholders should have an enforceable right to be present where and when decisions are made and to present advice on these decisions. In this context, I support the Site Specific Advisory Board (SSAB) concept for all decommissioning activities, except for those activities which fall below a certain threshold. (A threshold could be established by the nature of the "perceived" threat, such as radionuclide half-life.)
- B. Proposed Section 20.1407 (a) delineates the scope of advice from the SSAB: 1) additional ways to reduce residual radioactivity; 2) the sufficiency of institutional controls; and, 3) the adequacy of financial assurances. I believe that this scope is too limited, and will constrain effective public participation. The SSAB, as an independent advisory board, should have the authority to investigate issues which go well beyond the scope of these questions. For example, as this concept is applied to DOE and DOD sites, SSABs or similar organizations have investigated such issues as risk assessment and residual health concerns, efficacy of the cleanup, and cleanup standards. I recommend that this section be revised to broaden the scope of advice. It should also be made clear that the responsibility of the SSAB is to coordinate decommissioning and land-use decisions, but not to supplant local jurisdictional rights.
- C. Under proposed Section 20.1407 (c-d), the membership of the SSAB would be limited to approximately 10 members plus an ex-officio representative from the NRC, and selected by the utility. In order to ensure that the SSAB is independent of utility and NRC control, the selection process should be open. Other government and local organizations should at least be allowed to offer nominations. The SSAB should include representatives of diverse segments of the community, including historically underrepresented ethnic and racial groups. Membership should also include representatives from ratepayer groups, public utility commissions, as well as local and state governments, workers, the public, and environmental groups. Additionally, the limit of 10 members is low.
- D. The concept of the SSAB was in part modeled after the Technical Assistance Grant (TAG) program that the EPA administers as part of the Superfund program. The TAG program has administrative problems, and the SSAB concept was in part developed to improve upon it. The TAG program provides paid technical support to eligible

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citizens groups near Superfund sites. The SSABs, as envisioned in this NRC proposal, are not provided funds for technical support. In our opinion, this is the bulwark of the SSAB concept. Without technical support, the dialogue among stakeholders is not done on a level playing field. Therefore, I recommend that the rule include a provision for funding independent technical assistance to the community/citizen members of the SSAB. I would encourage the NRC to consult with the DOE and EPA about this, and specifically look at the new SSAB that has been formed at Hanford.

Yours very truly,



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