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Joan Claybrook, President

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Sent electronically on March 11, 1994

Mr. Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

ATTN: Docketing and Service Branch

Comments on
Staff Draft Radiological Criteria for Decommissioning
(10 CFR Part 20)

Dear Mr. Chilk:

Thank you for giving Public Citizen an opportunity to comment on the "Draft Radiological Criteria for Decommissioning." As a participant in one of the workshops that formed part of the "enhanced rulemaking process," I appreciate the fact that the NRC staff has, in this instance, sought out and taken into account a broad and diverse range of views. Our comments follow.

"GOAL"

The staff draft proposes that the decommissioning goal will have been met if the cumulative Total Effective Dose Equivalent (TEDE) to the average member of the critical group from all radionuclides that could contribute to residual radioactivity and are distinguished from background does not exceed 3 mrem per year. Return-to-background is the appropriate standard for deciding when a radiologically contaminated facility has been cleaned up and is eligible for license termination. Any other standard allows the licensee to leave a hazardous pollutant - radiation - onsite, where it will threaten the health of people living or working near the site.

There is no safe level of radiation; any dose, no matter how small, carries a risk of cancer, birth defects, reduced immunity and mental retardation. Most people who will receive residual radioactivity at a decommissioned site will do so unknowingly and unwillingly. Nuclear licensees have no right to inflict health hazards on communities -- the polluters should pay to clean up their poisons before their licenses and liability are terminated.

Therefore, we support the staff draft's proposal to establish a goal of returning the facility to levels approximating background. Most, if not all, of the citizen participants in the workshops

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argued for a return-to-background standard, and I believe a vast majority of the entire American public would agree.

We note that the definition of "background" would now include fallout from past nuclear accidents like Chernobyl. While it is true that licensees had no control over Chernobyl, it is interesting that background radiation, often referred to as "from natural sources," now includes the products of very unnatural events, and the baseline for background is being padded by the incorporation of radiation already inflicted on unsuspecting populations by the nuclear power and weapons industries. To prevent such baseline padding and to hold polluters accountable, "unnatural background" factors should be calculated separately from naturally occurring radiation.

"LIMIT"

The 3 mrem goal is revealed to be something of a facade by the proposal to set a 15 mrem "limit" for release of a site and provide for license termination and release for unrestricted use following the licensee's demonstration that the residual radioactivity at the site has been reduced to as close to the goal as reasonably achievable.

Public Citizen opposes release of sites for unrestricted use when people could be subjected to as much as 15 mrem annually. This "limit" is actually 50% higher than the 10 mrem-per-practice figure used in the now discredited and repealed "Below Regulatory Concern" policy. The cancer death risk from such a level of exposure is 1-in-2,000 (according to the figures NRC used in its "BRC" policy), an unacceptably high rate. That figure does not even include non-fatal cancers and non-cancerous health effects caused by ionizing radiation.

Since these areas would be released for unrestricted use, they could become the sites of homes, schools, offices or parks. Untold numbers of citizens could be unknowingly and involuntarily exposed to harmful radiation. The resulting illnesses are too high a price to pay for saving licensee dollars on cleanup expenses.

ABOVE THE "LIMIT"

Most disturbing is the proposal to allow for license termination even when residual radioactivity at the site would exceed 15 mrem. Considering license termination because compliance with the 15 mrem "limit" would be "prohibitively expensive" opens the door to a tradeoff of human health for corporate profits. The only upper limit the draft places is 100 mrem, and even higher levels are **not ruled out** by the proposal that the Commission "will not normally consider" terminating when residual radioactivity would exceed 100 mrem per year" if the site were to be released for unrestricted use. These are loopholes big enough to drive a truck through, and they completely undermine the 3 mrem "goal." These proposals give citizens no assurance that sites will ever be truly cleaned up. All of our objections to the 15 mrem "goal" are multiplied for the provisions allowing even higher exposures.

RESTRICTED CONDITIONS

Public Citizen supports the redefinition of "decommission" to include provision for restricted conditions, because many sites may not be appropriate for unrestricted use, particularly if the standards used are as lax as those proposed by the staff draft. Sites should not be opened for unrestricted use if higher-than-background radiation remains. However, the use of restricted conditions should not be used to exempt licensees from their responsibility to carry out as much decontamination as possible, or to terminate their liability for the remaining hazard. Licensees should remain responsible for protecting the public from the hazards posed by licensee activities, and the fiscal burden of these protections should not be foisted onto the taxpayers.

CRITICAL GROUP

The use of a critical group, those individuals expected to receive the greatest exposure to residual radioactivity, is valid. However, basing standards on the dose received by the "average member of the critical group" will not sufficiently protect more vulnerable individuals. Standards should be strict enough to protect the most vulnerable, including children, pregnant women, and elderly people.

PUBLIC PARTICIPATION

The NRC's extensive use of public participation procedures early in this rulemaking process is a welcome step for an agency that has been trying to reduce public participation in other areas. The staff draft contains some first steps toward building effective public participation into the decommissioning process itself, but its shortcomings will prevent it from being meaningful unless further steps are taken.

Site Specific Advisory Boards (SSABs) should be required in all significant decommissionings, not just some. Certainly, they should be required for all decommissionings of major plants, like fuel cycle facilities. Even in cases where the licensee proposes to meet the conditions for unrestricted release, public participation is essential to ensuring that enforceable, verifiable decontamination is actually achieved. The SSAB should not be dissolved until the site has been restored.

The SSAB has been patterned after the recommendations contained in the Interim Report of the Federal Facilities Environmental Restoration Dialog [sic] Committee, which has been praised by public interest participants. However, NRC licensees are not federal facilities. By having the SSABs appointed by and reporting to the licensee, rather than the government, the staff proposal undermines the independence and effectiveness of the Advisory Board. The SSAB should be appointed by and report to the NRC and the relevant state and local governments, not the licensee, so that it is not subject to inappropriate influence.

Furthermore, the information requirement of the SSAB proposal should be strengthened. The rule must provide for the SSAB to have access to all information relevant to the proposed

decommissioning. Without all the relevant information, the SSAB will not be able to carry out its duties effectively, and the public participation process will be a sham.

One way to enhance the NRC's knowledge of public participation processes would be to convene a conference bringing together organizations and individuals involved in previous radiation cleanup efforts.

PREVIOUSLY BURIED RADIOACTIVE MATERIALS

Public Citizen strongly supports the staff draft's proposal to include in its decommissioning rule residual radioactivity from materials previously buried in accordance with NRC requirements in 10 CFR 20.304, 20.302, and 20.2002. As the draft states, public risk is the overriding factor. To require cleanup of some parts of a site while ignoring radioactive waste buried at that site would constitute a cruel hoax on the community.

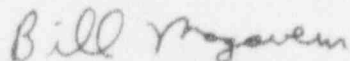
USE OF ACTUAL MEASUREMENTS

Use of anything but actual measurements would cast serious doubt on the effectiveness of the cleanup standards. Modelling is no substitute for actual measurements. Therefore, the rule should call for use of actual measurements whenever possible.

MINIMIZATION OF CONTAMINATION

The staff draft begins to address the concern of many workshop participants for pollution prevention. The proposal makes a good start by requiring that licensees adopt procedures to minimize contamination, facilitate decommissioning, and minimize generation of radioactive waste. The Commission should go further by requiring licensees to justify any practice that generates radioactive waste or causes radioactive contamination. All applicants should have to demonstrate that such contamination is necessary, and that nonradioactive alternatives do not exist.

Respectfully Submitted,



Bill Magavern
Director
Critical Mass Energy Project
(202)-546-4996