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NATIONAL NUCLEAR WASTE TASK FORCE

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Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

In the Matter of: 60 FR 63984
OFFICE OF SECRETARY
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ATTN: Docketing and Services Branch FAX: 301-415-1672

As a member of the Sierra Club National Nuclear Waste Task Force, I am asked to submit comment on behalf of the Task Force on the NRC's Proposed Rule "Constraint Level for Air Emissions of Radionuclides." This matter is of significance for members of the Sierra Club who live or work near nuclear facilities, nationwide, and who will be affected by promulgation of this rule.

We recognize the potentially positive gain for protection of the public from an enforceable NRC regulation that will reduce the level of radioactive air emissions to the environment. However, we regret that this proposed rule has not been posed in a way that guarantees that actual doses received by individual members of the public offsite will in the future conform with the requirements that the Environmental Protection Agency (EPA) must meet before the Administrator may relinquish EPA's statutory duty imposed by the Clean Air Act to promulgate air emission standards for radionuclides.

The Task Force recommends that NRC withdraw this proposed rule. At the minimum, the rule should be revised to provide for promulgation of an air emission standard for exposure of members of the public from radionuclides that is *mandatory and must be rigorously and consistently enforced by the NRC*, rather than a constraint level that is simply a regulatory guidance with which a licensee may or may not properly comply, and may or may not be charged with violation or penalized by the regulator.

An NRC constraint level air emission and dose limit designed to operate with the ALARA program must set an enforceable maximum dose to a member of the public that not only sometimes meets the EPA's NESHAPS standard of 10 mrem/yr EDE but results in a certainty that an ample margin of safety is truly achieved by requiring facility operations that reduce air emissions well below the 10 mrem/yr TEDE that NRC proposes as guidance. The reason for this reduction is to assure that the margin of safety will be ample -- that is, well below the level set as a maximum by EPA in its 1989 NESHAP standard for radionuclides.

The NRC must also make unequivocal provision for citizen litigation in the event that the ALARA constraint level is not met. The current situation would preclude appeal to courts, in part because the only avenue is NRC's 2.206 provision and in part because it is impossible to mount an effective challenge to a limit that is merely a guideline that a licensee is not required to meet.

Actual measurement of doses to actual people is sorely needed; NRC should incorporate such a program into a mandatory program of ALARA with constraint level. The NRC should also initiate and require a program of independent continuous measurement of air releases from nuclear facilities to replace the NRC's present system that permits licensees to provide the data without any independent monitoring of the accuracy of what they submit to NRC.

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When the NRC issued construction permits for nuclear production and utilization facilities, the applicants had to demonstrate (or promise) that their designs were capable of maintaining routine radioactive releases at a level that results in a maximum dose to a member of the public that is no greater than 5 mrem/yr. This was called a "design basis release."

In view of all that has subsequently been learned about the adverse health effects of low-dose irradiation and protracted or repetitive low-dose exposure, it would now be prudent for the NRC to make that dose limit mandatory for all nuclear facility licensees. This is a reasonable regulatory position for the NRC to adopt, since the agency has claimed to EPA that its licensees' releases already are giving doses to the public that are within one to three mrem/yr of that level.

It is, after all, on the basis of this NRC assurance that EPA is proposing to rescind its NESHAPS standards-setting authority under the Clean Air Act and turn over that authority to NRC. Now NRC must take the necessary steps to be certain that the margin of safety is consistently met by all, not just some, licensees, state and federal, at all times in the future. The best way to do so is to require by regulation, not mere guidance, the conservative dose limit we are recommending, along with the additional safeguards of independent monitoring and measurement of emissions and doses received.

The recommendations that we offer relate directly to the protection of public health and safety and quality of the environment with respect to the problems of isolating radioactive wastes from the biosystem for their very long periods of biological toxicity. That task has proven far more difficult than NRC, Agreement States, Congress, and the nuclear waste industry anticipated. Waste isolation is not likely to become easier; here, too, is a strong reason for the NRC to adopt a conservative mandatory enforceable regulatory stance that is consonant with the Commission's long-standing claim of its commitment to defense in depth and redundancy of safeguards. We ask that the NRC adopt these suggestions in order to improve the protection of health, safety, and the environment that are the fundamental concerns of the Sierra Club.

Respectfully submitted by Judith Johnsrud for the
Sierra Club National Nuclear Waste Task Force

I certify that this document has been placed
in the U.S. Mail, first class, postage paid,
on the 12th day of March 1996.