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From: "Frazee, Terry" <Terry.Frazee@DOH.WA.GOV>
To: "SECY@NRC.GOV" <SECY@nrc.gov>
Date: Mon, Dec 13, 1999 5:51 PM
Subject: SP-99-064 "Clearance Rule"

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This is in response to SP-99-064, a letter from the Office of State Programs dated September 16, 1999, requesting comments on the issues paper and scoping process related to "Clearance of Materials and Equipment from Regulatory Control" (also referred to as "Control of Solid Materials at Licensed Facilities"; SP-99-073). Comments were invited on the following specific issues:

Issue No. 1 -- Should the NRC address inconsistencies in its release standards by considering rulemaking on release of solid materials?

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(64FR35090)

We agree there appears to be inconsistencies in how various materials are regulated with regard to "free release". This is both in origin (NARM versus AEA) as well as specific detail (surface versus volumetric contamination, limited contamination on small items such as tools to be re-used versus large quantities of scrap metal to be recycled, and the various dose bases for the different guidance documents/regulations). However, while the current system of case-by-case decision-making is very complicated, it does appear to be working for the majority of our licensees. We believe the proposed rule-making only benefits a limited segment of the industry. Although total metal recycling, for instance, is a desirable goal, we believe the amount of contaminated metals to be recovered is very small compared to the overall volume of available "clean" scrap metal in this country. The economic benefits to a few large licensees in salvaging a relatively small amount of metal may not be justified in terms of the equivalent societal and socio-economic costs. This may also be true for concrete, which NRC has addressed in its discussion, as well as equipment, wood, soil and "trash" which NRC has not addressed.

We believe it is appropriate to update Regulatory Guide 1.86 for surface contaminated material. It should continue to provide specific limits of contamination but be based on potential dose instead of instrument capability. It should not allow licensees to set their own limits by selective scenario modeling to satisfy a "dose-based" regulation. We don't want there to be any temptation for "justification-creep" in the release of radioactive materials into the general public arena. Consistency amongst licensees is the concern.

With respect to consideration for small amounts of volumetrically contaminated materials the NRC should re-evaluate the tables in 10 CFR on exempt concentrations and exempt quantities. These may be misconstrued as release limits and are not based on a current dose limit.

Issue No. 2 -- If NRC decides to develop a proposed rule, what are the principal alternatives for rulemaking that should be considered, and what factors should be used in making decisions between alternatives?

We believe that "unrestricted" release of materials may be warranted if an appropriate and justifiable limit is used. We believe that "1 millirem per year" as used in the recent voluntary consensus standard found in ANSI (and

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consistent with international guidelines) is appropriate and easier to defend than the other limits mentioned in the Federal Register notice. This dose limit should be consistent between states and also within NRC rule space. However, as noted above, we believe specific concentration and activity values must be included to assure consistency amongst licensees. We believe there may be some confusion in the actual use of the "exempt quantity" and "exempt concentration" tables and their function needs to be evaluated along with this rule-making.

Issue No. 3 -- If NRC decides to develop a proposed rule containing criteria for release of solid materials, could some form of restriction on future use of solid materials be considered as an alternative?

We are strongly opposed to a "restricted" category of free release. Radioactive material needs to be controlled or not controlled (free release). Any attempt to try to "restrict" materials in some intermediate fashion will frustrate states when such materials cross borders and become subject to varying degrees of oversight. There should be no circumstance where "tracking" of materials varies from state to state.

Issue No. 4 -- If NRC decides to develop a propose rule, what materials should be covered?

We believe "free release" should be for such intrinsically small quantities of radioactive material that not only is the dose trivial but the matrix is unimportant. Thus we believe a "free release" rule should be applied generically to all substances.

These comments represent the position of the Radioactive Materials Section and the Environmental Radiation Section of the Division of Radiation Protection, State of Washington, Department of Health. This e-mail sent on behalf of:

Debra McBaugh, Supervisor, Environmental Radiation Section

and

Terry C. Frazee, Supervisor, Radioactive Materials Section

This message from Terry C. Frazee
e-mail terry.frazee@doh.wa.gov

Quick ways to reach me:
Voice = 360-236-3221
FAX = 360-236-2255

Also, visit our Home Page at
<http://www.doh.wa.gov/ehp/rp>

CC: "ab-Debra (E-mail)" <dxm0303@nrc.gov>, "AL-Kirksey..."