

## **10 CFR PART 40 RULEMAKING WORKING GROUP CHARTER**

October 17, 2000

**Purpose** Propose options to address problems in 10 CFR Part 40 (excluding regulations specific to uranium recovery activities) identified by the working group in order to improve the control of distribution of source material to exempt persons and to general licensees and make 10 CFR Part 40 more risk-informed.

### **Working Group**

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Bill Sinclair, State of Utah, Agreement State representative  
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### **Background**

10 CFR Part 40 defines source material as “(1) Uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) of: (i) Uranium, (ii) thorium or (iii) any combination thereof. Source material does not include special nuclear material.”

Apart from a specific license, source material is used under various exemptions from licensing requirements in Part 40 for which there is no regulatory mechanism for the Commission to obtain information from distributors/manufacturers to fully assess the resultant risks to public health and safety. No controls are in place to ensure that products and materials distributed are maintained within the applicable constraints of the exemptions. An assessment of potential and likely doses occurring as a result of these exemptions has been recently conducted (Draft NUREG-1717: “Systematic Radiological Assessment of Exemptions for Source and Byproduct Material”) which raises concerns that some exemptions may need to be reexamined. A recent petition, PRM-40-28, also raises concerns about the exemption for uranium in counterweights.

In addition, the amounts of source material allowed under the general license in § 40.22 could result in exposures to workers at facilities exempt from Parts 19 and 20 that are greater than 10 CFR Part 20 exposure limits. A recent petition from the State of Colorado and the Organization of Agreement States, PRM-40-27, addresses this issue. Like source material exempt from the requirements in Part 40, there currently are no requirements specifically for those distributing source material for use under § 40.22; and thus, no regulatory mechanism exists for the NRC to identify the general licensees or get information on what material types and quantities are distributed or to fully assess the resultant risks to public health and safety. Without knowledge of the identity and location of the general licensees, it would be difficult to enforce restrictions on the general licensees. In Part 40, the Commission has no provisions setting forth requirements for licensing the distribution of source material to exempt persons or to persons using the general license in § 40.22.

The working group will consider recent health and safety data to determine what (if any) problems exist with the current content of 10 CFR Part 40. This would not include regulations dealing specifically with uranium recovery activities that are being addressed separately. This working group will identify problems with 10 CFR Part 40 and propose options to address these problems. This will be done through a risk-informed approach while attempting to minimize the impact to current and potential licensees.

### **Function**

- Bring together NRC and State representatives to identify problems with 10 CFR 40 and suggest options to address these problems in order to better protect the safety of the public and the environment regarding the use of source material. This would not include regulations dealing specifically with uranium recovery activities that are being addressed separately.
- Identify advantages and disadvantages of any proposed options to address the identified problems with 10 CFR Part 40 and their impacts to the public, licensees and potential licensees, and regulators.
- Provide input into the development of a draft rulemaking plan and any subsequent rulemaking package.

### **Desired Products**

- Draft Rulemaking Plan.
- Draft Rulemaking Package.
- Documentation of the activities of the Working Group.