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Joseph DelMedico
Office of Nuclear Regulatory Research
U.S. Nuclear Regulatory Commission
Washington, DC 2055-001

OFFICE OF NUCLEAR REGULATORY RESEARCH
DOCKET

Dear Mr. DelMedico:

This is in response to SP-96-093 regarding draft of final rule on Unauthorized Use of Radioactive Material. Comments are requested by September 20, 1996.

Having reviewed the provided draft we continue to oppose promulgation of this proposed rule as noted in our previous comment letter referencing our regulatory reform provisions, which require that we emphasize education and assistance before the imposition of penalties and states that our regulatory system not impose excessive, unreasonable or unnecessary obligations. We continue to believe that the proposed rule is an over reaction to the incidents documented in the regulatory analysis due to the very rare occurrence compared to usage of radioactive

materials in these institutions and the fact no regulatory limit has been

exceeded.

We are not convinced that NRC has justified the need for this rule, we cannot be asked to adopt a rule unless it is justified from a health and safety perspective, NRC's own response makes the case that no regulation is needed since (1) reports are required when exposures exceed a threshold; and (2) this historical review indicates that no serious harm was done to an individual in any of the cases identified. We continue to

believe more attention should be placed on developing non-regulatory alternatives, especially those emphasizing education and assistance before imposition of penalties as clearly the case in your draft final rule.

With respect to your request for comments on the cost to the Agreement States, we believe the time estimated for adopting a compatible rule is reasonable, but the time estimated to perform reactive inspections may be

under estimated. To further comment we need to see the time estimated for an individual inspection rather than the total time provided in your regulatory analysis. The calculation method you have used to estimate the cost for the program is not 100% clear.

This letter was dictated from the Annual Agreement States Meeting and I will not be in the Office before the comment due date. I apologize for not giving this more thorough review.

Thank you for the opportunity to comment.

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L-4-1 Proposed Rule

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Sincerely,

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