February 9, 2004

Ms. Patricia Gorman
Conference of Radiation Control
Program Directors, Inc.
205 Capital Avenue
Frankfort, KY 40601

Dear Ms. Gorman:

I am responding to the Conference of Radiation Control Program Directors, Inc.'s (CRCPD) letter of December 3, 2003, requesting that the Nuclear Regulatory Commission (NRC) concur in the final version of the CRCPD Suggested State Regulation (SSR) for Control of Radiation, Part N - Regulation and Licensing of Technologically Enhanced Naturally Occurring Materials (TENORM).

As you know, NRC does not have legal authority over TENORM and therefore, will not be providing formal concurrence. Under the Atomic Energy Act (AEA), the NRC's authority over radioactive materials is limited to source, special nuclear, and byproduct materials, or those materials that are generally associated with the nuclear fuel cycle. Nevertheless, the NRC does have an interest in Part N and the standards that it establishes for TENORM. As a co-chair (with the Environmental Protection Agency) of the Interagency Steering Committee on Radiation Standards (ISCORS), the NRC is responsible for facilitating consensus on allowable levels of radiation risk to the public and workers, and the promotion of consistent and scientifically sound risk management and assessment approaches for radiation protection. The NRC, as a regulator of AEA materials, is also interested in having an appropriate degree of consistency in the regulation of radioactive materials, including TENORM.

As a result of our review, we offer the attached suggestions for the CRCPD's consideration. We believe that Part N represents a significant accomplishment by the CRCPD in establishing a model regulation for use by States. Many potentially important sources of public exposure to TENORM are not regulated by any Federal agency. Given the significant amounts of TENORM, to the extent that Part N approaches are adopted by States, it will be useful in minimizing risks to the public from exposure to ionizing radiation from TENORM.

After you have had the opportunity to review our response, NRC staff is prepared to discuss and review the comments with CRCPD staff. If you have any questions, or would like to arrange for discussion with NRC staff, please contact me or John Zabko at (301) 415-2308 or e-mail: JGZ@NRC.GOV.

Sincerely,

\RA By P.H. Lohaus

Paul H. Lohaus, Director
Office of State and Tribal Programs

Enclosure:
As stated

February 9, 2004

Ms. Patricia Gorman
Conference of Radiation Control
Program Directors, Inc.
205 Capital Avenue
Frankfort, KY 40601

Dear Ms. Gorman:

I am responding to the Conference of Radiation Control Program Directors, Inc.'s (CRCPD) letter of December 3, 2003, requesting that the Nuclear Regulatory Commission (NRC) concur in the final version of the CRCPD Suggested State Regulation (SSR) for Control of Radiation, Part N - Regulation and Licensing of Technologically Enhanced Naturally Occurring Materials (TENORM).

As you know, NRC does not have legal authority over TENORM and therefore, will not be providing formal concurrence. Under the Atomic Energy Act (AEA), the NRC's authority over radioactive materials is limited to source, special nuclear, and byproduct materials, or those materials that are generally associated with the nuclear fuel cycle. Nevertheless, the NRC does have an interest in Part N and the standards that it establishes for TENORM. As a co-chair (with the Environmental Protection Agency) of the Interagency Steering Committee on Radiation Standards (ISCORS), the NRC is responsible for facilitating consensus on allowable levels of radiation risk to the public and workers, and the promotion of consistent and scientifically sound risk management and assessment approaches for radiation protection. The NRC, as a regulator of AEA materials, is also interested in having an appropriate degree of consistency in the regulation of radioactive materials, including TENORM.

As a result of our review, we offer the attached suggestions for the CRCPD's consideration. We believe that Part N represents a significant accomplishment by the CRCPD in establishing a model regulation for use by States. Many potentially important sources of public exposure to TENORM are not regulated by any Federal agency. Given the significant amounts of TENORM, to the extent that Part N approaches are adopted by States, it will be useful in minimizing risks to the public from exposure to ionizing radiation from TENORM.

After you have had the opportunity to review our response, NRC staff is prepared to discuss and review the comments with CRCPD staff. If you have any questions, or would like to arrange for discussion with NRC staff, please contact me or John Zabko at (301) 415-2308 or e-mail: JGZ@NRC.GOV

Sincerely,

\RA By P.H. Lohaus

Paul H. Lohaus, Director
Office of State and Tribal Programs

Enclosure: As stated
Distribution:
DIR RF DCD (SP02) PDR (YES) NMSS/DWM
STreby, OGC JLieberman, OGC Response to Incoming Document: ML033421455

DOCUMENT NAME: C:\NRC\Regs\Part N 3.wpd
To receive a copy of this document, indicate in the box: "**C**" = Copy without attachment/enclosure "**E**" = Copy with attachment/enclosure "**N**" = No copy

OFFICE	STP		STP		STP:DD		NMSS		STP: D	
NAME	ANMauer		JZabko		JMPiccone		MVirgilio		PHLohaus	
DATE	12/18/03*		12/19 /03 1/28/04*		02/04/04*		02/05/04*		02/08/04*	

ML040400026 **OFFICIAL RECORD COPY**

NRC STAFF COMMENTS ON PART N
Regulation and Licensing of
Technologically Enhanced Naturally Occurring Materials (TENORM)
and Implementation Guidance

1. Throughout the document, there are footnote symbols of "*" and numbers intermixed and sometimes, apparently these footnotes are out of sequence.

2. P. 8 of the Implementation Guidance states that the revised dose assessment has used the dosimetry of ICRP 68, which has been accepted by the NRC Commissioners and Technical Staff (NRC 99-077, April 1999). It states, starting on line 13, that "the Commission has recommended that ICRP Publication 68 dosimetry be considered for future rulemakings." In a future revision, CRCPD should consider using the following statement, which we believe more precisely states the Commission position: "The Commission has approved the staff granting exemptions on a case-by-case basis for those licensees requesting to use the ICRP revised internal dosimetry models."

3. In both the Rationale document and the Implementation Guidance, in the section, "*Matters for Future Consideration,*" item 4 states that for consistency with Part C (of the SSR) and 10 CFR Part 32, the Table of Doses and the dose terminology in N.22c.iii.(12) and N.23b.were not revised to include the present terminology used in 10 CFR Part 20 and Part D (of the SSR). However, one such change has been incorporated into the document in N.22c.iii.(12) and N.23b; "dose commitment' has been changed to "committed dose equivalent." We recommend that you revise this statement in these two documents to reflect this fact.

4. There is no explanation in the Rationale document for the change in the footnote that appears on page N16, i.e. different standards have been applied to the values of "*low*" and "*negligibl*e" failure rates. This is also a deviation from similar standards in 10 CFR Part 32. Although there is no basis for requiring compatibility between Part N and 10 CFR Part 32, it is recommended that an explanation be given for this deviation and change from the earlier version of Part N, as it would allow higher accident risks.