

NRCREP Resource

From: BELL, Denise [dxb@nei.org] on behalf of KILLAR, Felix [fmk@nei.org]
Sent: Monday, August 04, 2008 3:32 PM
Subject: Uranium Mining Industry Comments on Draft Regulatory Guide DG-3024
Attachments: 08-04-08_NRC_Uranium Mining Industry Comments on Draft Regulatory Guide DG-3024.pdf

August 4, 2008

Rulemaking, Directives, and Editing Branch
Officer of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

5/30/08
73 FR 31152
⑤

RECEIVED

2008 AUG -4 PM 3:53

RULES AND DIRECTIVES
BRANCH
USNRC

Subject: Uranium Mining Industry Comments on Draft Regulatory Guide DG-3024, "Standard Format and Content of License Applications for Conventional Uranium Mills."

Project Number: 689

Dear Sir/Madam:

The Nuclear Energy Institute (NEI) submits the following comments for consideration as you finalize Draft Regulatory Guide DG-3024, "Standard Format and Content of License Applications for Conventional Uranium Mills." These comments are based on input from uranium mining and milling industry representatives who depend on such licensing guides to ensure submittal of complete and high quality license applications. As such, this letter reflects their concerns. Comments on DG-3024 were requested by August 4, 2008.

Industry appreciates NRC's efforts to provide a comprehensive and transparent process for applicants who submit a license application for new uranium mill facilities. Industry also recognizes the need for and desirability of comprehensive guidance to ensure complete and high quality license applications. This approach will assist NRC staff in carrying out its mandate of ensuring an adequate level of worker, public and environmental safety at all licensed facilities. To this end, the following comments are offered for your consideration as we collectively work to reach our mutual safety goal.

Sincerely,

Felix M. Killar, Jr.

Felix M. Killar, Jr.
Senior Director, Fuel Supply/Material Licensees
Nuclear Generation Division

Nuclear Energy Institute

*SOUSI Review Complete
Template = ADM-013*

*E-RIDS = ADM-03
Ad = H. Karagiannis
(hxk)*

1776 I Street NW, Suite 400
Washington, DC 20006
www.nei.org

P: 202-739-8126

F: 202-533-0157

E: fmk@nei.org

nuclear. clean air energy.



NUCLEAR ENERGY INSTITUTE

Felix M. Killar, Jr.
SENIOR DIRECTOR
FUEL SUPPLY/MATERIAL LICENSEES
NUCLEAR GENERATION DIVISION

August 4, 2008

Rulemaking, Directives, and Editing Branch
Officer of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Uranium Mining Industry Comments on Draft Regulatory Guide DG-3024, "Standard Format and Content of License Applications for Conventional Uranium Mills."

Project Number: 689

Dear Sir/Madam:

The Nuclear Energy Institute (NEI)¹ submits the following comments for consideration as you finalize Draft Regulatory Guide DG-3024, "Standard Format and Content of License Applications for Conventional Uranium Mills." These comments are based on input from uranium mining and milling industry representatives who depend on such licensing guides to ensure submittal of complete and high quality license applications. As such, this letter reflects their concerns. Comments on DG-3024 were requested by August 4, 2008.

Industry appreciates NRC's efforts to provide a comprehensive and transparent process for applicants who submit a license application for new uranium mill facilities. Industry also recognizes the need for and desirability of comprehensive guidance to ensure complete and high quality license applications. This approach will assist NRC staff in carrying out its mandate of ensuring an adequate level of worker, public and environmental safety at all licensed facilities. To this end, the following comments are offered for your consideration as we collectively work to reach our mutual safety goal.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

General Comments

1. All license applicants, regardless of the technology employed at the facility, would greatly benefit from a complete and reliable "annotated checklist." The checklist should be consistent with the sequence of health, safety and environmental topics and topic content which is required for the preparation of a high quality and complete license application. Such an approach would help ensure that our mutual goal of having only one set of Requests for Additional Information (RAI) is met.
2. All applicants would also benefit from the inclusion of and clear references to all applicable existing NRC legal and policy precedent and technical positions. The staff should consider including a "cross walk" by application section or technical issue that would cite the relevant document or source of information to be used by the applicant to ensure a complete application. References should encompass existing regulatory programs (e.g., 10 CFR Part 40, Appendix A); existing guidance documents (e.g., NUREG-0706, "Final Generic Environmental Impact Statement on Uranium Milling) and technical guides; and other current NRC legal and policy precedent and staff technical positions (e.g., Hydro Resources Inc. legal case and materials at the Maywood site). For example, NUREG-0706 provides useful analyses regarding key health and safety and environmental issues including, but not limited to, potential public and occupational radiological dose from yellowcake production and tailings facilities, potential groundwater impacts, and decommissioning planning and completion. Given that the regulations applicable to conventional uranium milling facilities were based in large part on NUREG-0706's analyses and all regulatory decisions affecting conventional mills have essentially been guided by them, it appears that NUREG-0706 should be described and referenced in full.
3. NRC staff should take into account and provide references to other regulatory programs that are directly applicable to conventional uranium recovery sites. For example, we did not identify any reference to the United States Environmental Protection Agency's (EPA's) 40 CFR Part 61, Subpart W work practice standards for tailings storage and management or 40 CFR Part 192 tailings impoundment design standards. These regulatory programs are inextricably linked to the contents of a high-quality license application for a new conventional milling facility. Failure to ensure that such regulatory requirements are accounted for in license applications potentially could result in unnecessary delays in the licensing process including additional sets of RAIs.
4. DG-3024 does not provide any specific references to the concept of performance-based license conditions (PBLCs) or the related use of safety and environmental review panels (SERPs). Current and former NRC licensees have operated both conventional uranium milling and ISR facilities using standard PBLCs that are well-understood and well-tested. The use of these PBLCs are accompanied by a requirement that licensees form a SERP that can render decisions pursuant to such license conditions without the need for an NRC-approved license amendment. As such, it may be efficient for a license applicant to request a PBLC for alternate feed materials as part of its initial license application.

5. Some potential license applicants have apparently approached NRC regarding the construction of a new conventional uranium milling facility on an already-licensed site so that existing site-specific data may be utilized in a license application. NEI believes that NRC should provide a short description of the manner in which a potential applicant may utilize such site-specific data in an application for completeness.
6. NRC staff should include a brief reference to and/or a description of the procedures related to its policy on public access to sensitive unclassified non-safeguards information (SUNSI) and how it relates to the submission of new license applications. Given the potential land use impacts associated with new conventional uranium milling sites, it is important that license applicants have a full understanding of the procedures and timelines associated with public access to such information. Thus, DG-3204 should contain a reference to NRC's SUNSI procedures, where appropriate.
7. NRC staff should consider inserting an estimated timeline for the licensing of a conventional uranium milling facility to provide license applicants with an understanding of the estimated time required to complete such actions as NRC staff's "acceptance review," its technical review, and completion of an environmental impact statement (EIS) or environmental assessment (EA). This will help potential applicants make informed decisions prior to application submittal.
8. Finally, NRC staff should provide license applicants with an up-to-date formula to calculate the mandatory 10 CFR Part 40, Appendix A, Criterion 10 cost estimates for long-term surveillance and monitoring. Currently, Criterion 10 requires that a conventional uranium mill licensee contribute \$250,000 in 1978 dollars. It would be useful to include an example of the formula using current cost figures so that licensees' annual financial assurance updates, which are required by 10 CFR Part 40, Appendix A, Criterion 9 in DG-3204, are more accurate and complete.

NEI appreciates the opportunity to provide comments on DG-3024 and we look forward to reviewing the final Regulatory Guide. If you have any questions or need additional insights on the comments contained in this letter, please do not hesitate to contact me at 202.739.8126; fmk@nei.org or Janet Schlueter at 202.739.8098; jrs@nei.org.

Sincerely,



Felix M. Killar, Jr.

c: Mr. Bill Von Till, FSME/DWMEP/DURLD, NRC