

40.14 agency allows exemptions

basic concern w/EPA - pre-license

- wastes and construction left behind if NRC doesn't grant a license
- if on fed or state land, BLM & state would hold bond?
- ⊕ • if on private land, EPA is questioning who has authority?
- is NRC creating an unfunded mandate?

EPA is concerned about storage of haz waste on site (need RCRA permit)
↳ also treatment and disposal

40 CFR 192.52 (a)

Steve is going to send EPA (Maureen Roundtree) a list of permits and approving authorities for UR facilities
↳ example: Crow Butte (located on private land)

Key Question: Who holds bond/who is responsible if on private land?

EPA and RIS (*pre-construction activities*)
↳ *exemption*

- ① Under our reading of UMTRCA, and NRC's regulations, all NRC permitting associated with a uranium extraction facility are provided only when the Agency (NRC) issues a license. Without the license, there are no permit forms, approvals, etc. that NRC can currently grant or issue. The potential area of land disturbance (hundreds of acres or more), and facilities which could cost millions of dollars being installed without NRC permits under the proposed policy change are significant.
- ② Who is going to ensure that SDWA, UMTRCA, CAA, CWA, and RCRA requirements are enforced? Why is there no analysis in the FR or referenced document on who becomes responsible for enforcement once NRC grants an exemption? Other Federal, State, and possibly Tribal agencies may be involved, but their requirements are predicated on mine operations commencing only when a company is granted an NRC license, with NRC providing regulatory oversight.
- ③ With respect to the hazardous waste issue, the construction project will require large amounts of petroleum products including tar, oil, and gasoline, paints, solvents, and other such chemicals. Since NRC has no pre-construction regulations in place, who is going to be making sure RCRA is enforced?
↳ *if on site for > 90 days (becomes a RCRA waste)*
- ④ Does NRC know if the States or Tribes, or EPA for that matter, have all the financial and other resources ready to enforce all these regulations since the company will be constructing a major facility without an NRC license? Is this now an unfunded mandate for the States, Interior, Agriculture, Tribes, EPA and maybe even property owners?
- ⑤ If the company goes broke, or is denied an NRC license, who is responsible for site cleanup and restoration? EPA's UIC bonding, for example, covers only the injection wells, not the producing wells or infrastructure. We do not know, nor did the FR Notice provide an analysis of the surety issue, whether everyone else's bonding requirements are adequate. The FR notice says it is at the company's risk. Is that really true?
- ⑥ NRC's authority over licensees is derived from UMTRCA, and that statute and EPA regulations require that a uranium extraction facility be treated as a Subtitle C hazardous waste facility for non-radioactive pollutants, and that NRC function as if it were an EPA Regional Administrator. We have posed a question to EPA's Office of General Counsel as to whether a Regional Administrator has the authority to allow pre-construction of a RCRA facility before receiving their permit to operate.

10 CFR 40.32(e) - *pre-con activities (source materials)*
↳ *restrictive - aquifer testing, exploratory borings (bldgs), road constr*

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