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30 July 2013

Secretary
U.S. Nuclear Regulatory Commission
Attention: Rulemakings and Adjudications Staff
Washington, DC 20555-0001

Gentlemen:

Subject: Kennecott Uranium Company's Comments on Revisions to *Transportation Safety Requirements and Harmonization With International Atomic Energy Agency Transportation Requirements*; Proposed Rules (Federal Register / Volume 78, Number 95 / Thursday, May 16, 2013 / Proposed Rules)

Kennecott Uranium Company is a uranium recovery licensee and operator of the Sweetwater Uranium Project in the Great Divide Basin in Sweetwater County, Wyoming. The Sweetwater Uranium Project contains the Sweetwater Mill which is one of the three (3) remaining conventional uranium mills in the United States.

Kennecott Uranium Company has reviewed the proposed rule and has the following comments:

Definition of LSA-1

The preamble states:

The NRC is proposing to correct the definition of LSA-I material, so that it applies to uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for their radionuclides. The low-level material exemption at § 71.14(b) (3), which includes packages containing only LSA material, would now apply to LSA-I material (i.e., material intended to be processed for its radionuclides).

The proposed definition of LSA-1 in the proposed rule states in part:

*(1) LSA-I.
(i) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;*

Kennecott Uranium Company strongly supports this proposed correction. It is entirely in keeping with the information provided to Dr. Janet Johnson in the e-mail from Maureen Conley of the Office of Public Affairs (OPA) dated Tuesday, January 8, 2013 (included in Appendix 1) and corrects a long standing error in the regulation that created an incompatibility with existing Department of Transportation (DOT) regulations that state in part:

(1) LSA-I

(i) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides which are intended to be processed for the use of these radionuclides;

Exemption for low level materials

10 CFR Part 71.14(a) (1) states:

(1) Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A-2, or Table A-3, of this part.

This section creates an exemption for natural material and ores that are not intended to be processed for the use of their contained radionuclides.

10 CFR Part 71.14(b) states:

(b) A licensee is exempt from all the requirements of this part, other than §§ 71.5 and 71.88, with respect to shipment or carriage of the following packages, provided the packages do not contain any fissile material, or the material is exempt from classification as fissile material under § 71.15:

(1) A package that contains no more than a Type A quantity of radioactive material;

(2) A package transported within the United States that contains no more than 0.74 TBq (20 Ci) of special form plutonium-244; or

(3) The package contains only LSA or SCO radioactive material, provided--

(i) That the LSA or SCO material has an external radiation dose of less than or equal to 10 mSv/h (1 rem/h), at a distance of 3 m from the unshielded material; or

(ii) That the package contains only LSA-I or SCO-I material.

The Preamble to the proposed rule discusses the above rules stating:

Natural material and ore containing naturally occurring radionuclides that are not intended to be processed for these radionuclides could qualify for the low-level material exemption at 10 CFR 71.14(a)(1). With the correction to the definition of LSA-I material, uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for these radionuclides may be able to qualify for the low-level material exemption at § 71.14(b)(3), provided that the other restrictions are satisfied. The restrictions include: (1) the package contains only LSA-I or Surface Contaminated Object (SCO)-I material or (2) that the LSA or SCO material has an external radiation dose rate of less than 10 mSv/h (1 rem/h) at a distance of 3 meters from the unshielded material.

Kennecott Uranium Company strongly supports and agrees with this statement, in that once uranium and thorium ores and concentrates and other ores containing naturally occurring radionuclides become LSA-1, the 10 CFR Part 71.14(b) exemption would apply to them. This is reasonable since these ores and concentrates are of low activity and by extension pose minimal risks and as such should be exempted as low level material under 10 CFR Part 71.14(b).

Kennecott Uranium Company appreciates the opportunity to comment on this proposed rulemaking. If you have any questions please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Oscar Paulson". The signature is written in a cursive style with a large, prominent initial "O".

Oscar Paulson
Facility Supervisor

cc: Katie Sweeney

Appendix 1

----- Original Message -----

From: [Janet Johnson](#)

To: 'Conley, Maureen'

Cc: 'OPA Resource' ; oscar.paulson@bresnan.net ; [Craig Little](#) ; 'Robert Meyer'

Sent: Tuesday, January 08, 2013 4:49 PM

Subject: RE: LSA_1 definition

Hi Maureen,

Thanks so much for the clarification. I suspected that the discrepancy was merely a typo and have stressed that the DOT definition is the one that should be followed since it is compatible with the IAEA definition. I will pass this information on to the folks in our training class.

Again thanks for your prompt response

Jan Johnson

From: prvs=71318c410=Maureen.Conley@nrc.gov [<mailto:prvs=71318c410=Maureen.Conley@nrc.gov>]

On Behalf Of Conley, Maureen

Sent: Tuesday, January 08, 2013 11:32 AM

To: janetj@sopris.net

Cc: OPA Resource

Subject:

Janet,

NRC added the current definition of LSA-I to Part 71 by final rule published on 1/26/2004 (69FR3698). In the preamble to the rule, the statements of consideration, Issue 9 (pp.3739-3740), there are repeated statements that NRC's change to the definition of LSA-I are intended to provide consistency and compatibility with TS-R-1 (IAEA regulations) and to agree with the DOT definition. Unfortunately, in the actual rule text for 10 CFR 71.4 (p.3788) it incorrectly included the word "not."

The NRC definition is:

"Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radioactive radionuclides which are not intended to be processed for the use of these radionuclides;"

The DOT definition is essentially the same but without the word "not" prior to "intended to be processed" and that is the specific discrepancy you have noted.

However, as noted above, our discussion of the definition in the statements of consideration clearly indicates that NRC intended to match DOT's definition. Sometime prior to 2006, this error was identified and was included in the list of items for the next revision to 10 CFR Part 71.

NRC is actively working on the Part 71 rulemaking at this time to harmonize with revisions to TS-R-1 issued by IAEA in 2003, 2005 and 2009. We anticipate that a Notice of Proposed Rulemaking will publish in the Federal Register sometime later in calendar year 2013. The correction to the LSA-I definition (to remove the word "not") is included in the proposed rule language, so hopefully this error will be soon corrected.

I hope this answers your question. If you need anything further, please do not hesitate to contact me.

Regards,

Maureen Conley
NRC Office of Public Affairs
301-415-8202

-----Original Message-----

From: Janet A. Johnson [<mailto:janetj@sopris.net>]

Sent: Thursday, January 03, 2013 1:04 PM

To: OPA Resource

Subject: Transportation of Low Specific Activity mater

Below is the result of your feedback form. It was submitted by

Janet A. Johnson (janetj@sopris.net) on Thursday, January 03, 2013 at 13:03:37

comments: The NRC definition of LSA-1 in 10CFR71.4 is directly contradictory to the DOT definition in 49CFR173.403. The DOT definition is consistent with the IAEA definition. I have been asking this question for about five years and have never gotten an answer. I teach rad transportation classes for uranium recovery facilities and need an answer as to whether the discrepancy is intentional and if so, for what reason or whether I am mis-interpreting something.

organization: Sopris Environmental
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address2:
city: Carbondale
state: CO
zip: 81623
country: USA
phone: 970-319-1808

From: [Schutterle, Shelley \(RTE\)](#)
To: [RulemakingComments Resource](#)
Cc: [Katie Sweeney - NMA](#); [Atkinson, Rich \(RTE-Cedar Mountain Ventures\)](#); [Paulson, Oscar \(RTE\)](#)
Subject: Comments on Revisions to Transportation Safety Requirements and Harmonization With International Atomic Energy Agency
Date: Tuesday, July 30, 2013 6:16:43 PM
Attachments: [NRC Comments.pdf](#)

Gentlemen:

Attached please find Kennecott Uranium Company's comments on the referenced subject matter (Docket ID NRC-2008-0198).

Thank you,

Shelley Schutterle
Administrative Coordinator
Kennecott Uranium Company

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