

From: sarah@uraniumwatch.org
To: [Dimmick, Lisa](#)
Subject: [External_Sender] Texas and Washington Agreement State Compliance with the AEA
Date: Tuesday, September 06, 2016 4:17:48 PM

Dear Ms. Dimmick,

This is followup on today's Texas IMPEP Review call. Below is my contact information. I have accessed the NRC and Utah Division of Waste Management (DWMRC) records regarding the spill of Smith Ranch ISL sludge and fluids at the entrance to the White Mesa Uranium Mill near Blanding, Utah.

I hope that Texas will take a look at the packaging and transportation of any sludges or liquid waste that is being transported from ISLs to the White Mesa Mill for disposal. Here is link to the Report on the Smith Ranch spill that is on the NRC docket, but has the photos in color (taken from DWMRC records):

http://www.uraniumwatch.org/whitemesamill/DWMRC_Report_SmithRanchWasteSpill.160426.pdf

The other Question I have of NRC staff is in regards to Texas and Washington's Agreement State Program compliance with the requirements of the Atomic Energy Act (AEA) at 42 U.S. C. Section 2021(o)(3), quoted below. For some reason the IMPEP Review teams never felt the need to ascertain whether Agreement States for 11e.(2) byproduct material have complied with this basic statutory requirement.

Over the past couple of years, in response to Allegations I made to the NRC regarding the Colorado and Utah Agreement State Programs, both Colorado and Utah amended their regulations to comply with the requirements of Section 2021(o)(3). The question now is whether the State of Texas and the State of Washington have done likewise, or must do likewise.

Therefore, I would like to know if NRC staff has made a determination with respect Texas and Washington's compliance with the requirements of the AEA at Section 2021(o)(3)(A)(C) and (D). If they have complied, I would like to know the specific state regulations that demonstrate compliance.

If not, I would like to know what the NRC is going to do about it. Must I submit another formal Allegation to the NRC in this regard if Texas and Washington do not have the required provisions regarding opportunity for comment, a hearing (with an opportunity for cross examination), and a written environmental analysis--prior to the issuance of a new license or significant license amendment.

Thank you for your response to my inquiry. Feel free to contact me if you have any questions.

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42 USC Section 2021(o)

“(o) State compliance requirements: compliance with section 2113(b) of this title and health

and environmental protection standards; procedures for licenses, rulemaking, and license impact analysis; amendment of agreements for transfer of State collected funds; proceedings duplication restriction; alternative requirements

In the licensing and regulation of byproduct material, as defined in section 2014 (e)(2) of this title, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection (b) of this section, a State shall require—

(1) compliance with the requirements of subsection (b) of section 2113 of this title (respecting ownership of byproduct material and land), and
(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 2113, 2114, and 2022 of this title, and

(3) procedures which—

(A) in the case of licenses, provide procedures under State law which include—

(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,
(ii) an opportunity for cross examination, and
(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;
(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;
(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and
(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 2014 (e)(2) of this title; and

(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C)."

[Emphasis added.]