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Review of Administrative Rules

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Submitter Information

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General Comment

See attached file(s)

Attachments

180702 WMA_NRC Review of Administrative Rules



WYOMING MINING ASSOCIATION

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July 1, 2018

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-001
Attn: Rulemaking and Adjudications Staff

Subject: Wyoming Mining Association (WMA) Comments on the Review of Administrative Rules– (Federal Register /Volume 83, Number 86/Thursday, May 3, 2018 Proposed Rules) - Docket ID NRC–2017– 0214

Gentlemen:

The Wyoming Mining Association (WMA) is an industry association representing mining companies, contractors, vendors, suppliers and consultants in the State of Wyoming. Among its mining industry members are uranium recovery licensees, including four (4) operating in-situ uranium recovery licensees, one conventional uranium recovery operator in standby, a company permitted to operate an in-situ uranium recovery facility at which operations have not commenced and several companies conducting final reclamation/restoration operations.

Total uranium concentrate production in the United States in 2017 was 2,440,000 pounds (U.S. Energy Information Administration - *2017 Domestic Uranium Production Report*). 2017 Wyoming uranium production was 897,435 pounds (World Nuclear Association), accounting for 36.8% of United States production. Wyoming is a major uranium producer in the United States and as such this Review of Administrative Rules is of concern to the WMA and its uranium recovery industry members.

The following are the Association's comments on the *Review of Administrative Rules*:

Introduction

The WMA supports the comments submitted by the National Mining Association (NMA) on this review. The WMA believes that the review is too narrow in scope and requests that the review be broadened to include the criteria outlined in Executive Order 13777, 82 Fed. Reg. 12,285 (Mar. 1, 2017). That order directed federal agencies to focus reviews on regulations that: (1) eliminate jobs or inhibit job creation; (2) are outdated, unnecessary; or ineffective; (3) impose costs that exceed benefits; (4) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; (5) use secret science; and (6) derive from or implement other Presidential directives that have been rescinded or modified. Also, the review should follow E.O. 13783, "*Promoting Energy Independence and Economic Growth*," that specifically directs agencies to review existing regulations that may burden domestic energy resources with an eye to suspending, revising, or rescinding regulations that "unduly burden" energy resources. These orders technically do not apply to independent agencies, however, such agencies are encouraged to comply. In the past, the Nuclear+ Regulatory Commission (NRC) has voluntarily complied with executive orders including E.O. 13579, "*Regulation and Independent Regulatory Agencies*," issued by President Obama in 2011.

Specific Review Items

- Environmental Protection Agency (EPA) Rulemaking on Groundwater Standards for *in Situ* Recovery (ISR) Facilities

The Nuclear Regulatory Commission (NRC) has expressed significant concerns regarding the proposal indicating the "...*proposed rule relies on arguments that are not fully supported, encroaches upon NRC's jurisdiction and includes requirements that are not technically feasible or are unreasonably burdensome on both NRC and Agreement State licensees without providing any equivalent benefit.*" The WMA requests that the review process should address continued engagement with the Environmental Protection Agency (EPA) with the objective of having this unnecessary and duplicative regulation formally withdrawn.

- Subpart W Uranium National Emissions Standards for Radon Emissions (NESHAPS)

The WMA requests that the review process include consideration of the Nuclear Regulatory Commission (NRC) working with the Environmental Protection Agency (EPA) to rescind 40 CFR Part 61 Subpart W as was done in the past with 40 CFR Part 61 Subpart I and Subpart T.

- Application of Timeliness in Decommissioning Rule to ISR Wellfields

Timeliness in Decommissioning (10 CFR 40.42) should not apply to in-situ uranium recovery wellfields. The Nuclear Regulatory Commission (NRC) itself has stated, "... *for ISR facilities with well-field restoration, 24 months is usually insufficient, because remediation of groundwater contamination is more time-consuming than remediation of surface contamination.*" (Source: *SECY-11-0159, Status of the Decommissioning Program – 2011 Annual Report, Nov. 10, 2011*) The WMA request that the review process examine this issue with consideration toward not applying Timelines in Decommissioning to in-situ uranium recovery wellfields.

- Health Physics Issues

The Nuclear Regulatory Commission (NRC) has not completed the draft radon guidance. The WMA requests that the Administrative Review examine work done to date on this document with a view to either abandoning the guidance preparation attempts or starting anew and working with industry and other stakeholders to ensure requirements related to effluent monitoring and public dose calculations are technically achievable and commensurate with risk. Also, in 2015, NRC received three petitions for rulemaking regarding the Linear No-Threshold (LNT) Model and standards for protection against radiation. WMA supports changing the basis of those regulations from the linear no-threshold model of radiation protection to the radiation hormesis model. This approach will move the NRC toward a risk informed regulatory regime that is more efficient while still being protective of radiation workers, the public and the environment.

- NHPA Section 106 Process

The WMA requests that this issue be included in the review process with an eye to changing the approach to making a "*reasonable and good faith*" effort as opposed to an exhaustive one. The NRC must not ignore the "*reasonable and good faith*" clause and

engage in exhaustive, expensive and resource intensive consultation efforts. Findings from the Section 106 process should be definitive and conclusive.

- Application of Alternate Concentration Limits to ISR Facilities

The WMA request that the review process include a review of the determination requiring the application of 10 CFR Part 40, Appendix A, Criterion 5B(5) groundwater quality standards to in-situ uranium recovery wellfields. The process should examine the development of Alternate Concentration Limit (ACL) guidance for in-situ uranium recovery facilities. Alternate Concentration Limits (ACLs) should also consider include deference to Class of Use findings for the portion of the aquifer in question.

In conclusion, the Wyoming Mining Association supports the comments prepared by the National Mining Association and requests that the six (6) above listed items be included in the review.

The Wyoming Mining Association (WMA) appreciates the opportunity to comment on this Administrative Review. If you have any questions, please do not hesitate to contact me.

Best regards,

A handwritten signature in blue ink, appearing to read "Travis Deti".

Travis Deti
Executive Director

Cc: Katie Sweeney - National Mining Association