



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAR 20 1980

Mr. Thomas E. Baca, Director
Environmental Improvement Division
Department of Health and Environment
P. O. Box 968
Santa Fe, New Mexico 87503

Dear Mr. Baca:

This is in reference to recent discussions between myself and staff of the Office of State Programs, and you and Ted Wolff; the document entitled, "Outline of Differences Between RTAC and EID Recommendations to Environmental Board on Radiation Regulations Public Hearing Record of May 16-20, 1979;" and the Board's action on March 14, 1980, regarding mill regulations.

We understand that the Board deferred approving the regulations for filing with the Secretary of State and has allowed the regulations to be opened up for modification. We believe that mill regulations covering technical standards, ownership of tailings and land, environmental analyses, rule making and other procedures, and bonding as originally proposed, are essential to enable New Mexico to meet the requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), as amended. Further, since New Mexico has taken the position, based upon legal advice, that the State cannot impose tailings management requirements at existing milling operations until regulations are in place, we believe it is essential they be adopted in the near future. The clarifying amendments to UMTRCA passed by Congress on November 9, 1979, and the accompanying legislative history make it quite clear that the Agreement States shall, in the interim period ending November 8, 1981, comply to the maximum extent practicable with the requirements of UMTRCA. New Mexico must demonstrate compliance with this requirement by adopting and putting into effect the regulations originally proposed and taking appropriate action on the differences between RTAC and EID recommendations (Enclosure).

Because of the critical nature of these actions, I plan to make myself available to the Board at its next scheduled meeting, April 11, 1980. At that time, I will be pleased, if requested, to explain our views and to respond to any inquiries the Board may wish to make.

Sincerely,

Original signed by
G. Wayne Fort

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NRC STAFF VIEWS ON THE DIFFERENCES BETWEEN
RTAC AND EID RECOMMENDATIONS

1. We believe the Performance Objectives in 12-300.K must be included in the regulations in order for New Mexico to comply with the UMTRCA of 1978. The Post Hearing EID recommended language changes are acceptable.
2. Similarly the wording of 12-300.L must apply to renewals as well as new applications in order for the State's regulations to meet UMTRCA requirements. Such a regulation must be in place by November 8, 1981 and we urge it be adopted now.
3. NMEID proposes to relax the criteria calling for the elimination of the need for ongoing maintenance and monitoring of tailings disposal sites.

The word "eliminate" in Section 12-300K(7) must not be changed to "minimize". Words such as those in our proposed regulations (proposed Appendix A to 10 CFR 40, Criteria 12) might be adopted to distinguish between a passive surveillance situation and the case where active maintenance is required to preserve the tailings isolation. The latter case is unacceptable; the need for active maintenance must be eliminated.

Protection Agency's "Environmental Radiation Protection Standards for Nuclear Power Operators" (40 CFR Part 190), which require certain uranium fuel cycle facilities to be operated such that release of radioactive materials and resulting radiation doses to the public are below specified limits. The proposed amendment would also require licensees to submit reports to NRC when those standards have been or may be exceeded.

DATES: Comment period expires June 16, 1980.

ADDRESSES: Interested persons are invited to submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Hickey, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone: 301-443-5966).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission proposes to amend its regulations in 10 CFR Part 20, "Standards for Protection Against Radiation," to incorporate the existing requirement for compliance with 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations." The Environmental Protection Agency (EPA) published 40 CFR Part 190 on January 13, 1977 (42 FR 2858). In accordance with a Memorandum of Understanding between EPA and the former Atomic Energy Commission (38 FR 24936, September 11, 1973), NRC is responsible for enforcing the provisions of 40 CFR Part 190 for NRC licensees.

Provisions of 40 CFR Part 190—40 CFR Part 190 requires certain uranium fuel cycle facilities to be operated such that releases of radioactive material and resulting radiation doses to the public are below specified limits. The effective dates for compliance are December 1, 1979, for most operations; December 1, 1980, for uranium mills; and January 1, 1983, for discharges of krypton-85 and iodine-129. Variances may be granted by NRC under certain circumstances.

Proposed Amendments—The proposed amendments state that NRC licensees must comply with 40 CFR 190, and would require licensees to submit reports to NRC when 40 CFR 190 limits have been or may be violated. Comments are particularly requested on the proposed reporting requirements.

Implementation—The NRC staff is already implementing 40 CFR Part 190 in accordance with the Memorandum of Understanding mentioned above. Existing licenses, except uranium mill

licenses, are being amended to include radioactive release limits, dose limits, and other requirements associated with compliance with 40 CFR Part 190. (Final procedures for uranium mills are still under development; 40 CFR 190 is not effective for uranium mills until December 1980.) Environmental Reports already required to be submitted with new applications in accordance with 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for environmental protection," will be required to include information relative to compliance with 40 CFR Part 190. Section 51.20(c) of 10 CFR Part 51 already requires Environmental Reports to include a discussion of the status of the facility's compliance with applicable environmental quality standards imposed by Federal agencies. The NRC staff will provide guidance to applicants, licensees, and others as appropriate on various aspects of compliance with 40 CFR Part 190.

Impact of the Proposed Regulations—Compliance with 40 CFR Part 190 is an existing EPA requirement and the NRC staff is already working to assure that its licensees will comply. The proposed regulations would incorporate the existing requirement into NRC regulations and add a new reporting requirement. Since the Environmental Protection Agency has already issued an environmental statement assessing the impact of 40 CFR Part 190 (EPA 520/4-76-016, November 1976), the Commission has concluded that any impacts associated with the proposed rules themselves will be insignificant, and an additional environmental impact statement is not required.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed rules should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by June 16, 1980.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. A new paragraph (c) is added to § 20.105 to read as follows:

§ 20.105 Permissible levels of radiation in unrestricted areas.

10 CFR Part 20

Environmental Radiation Protection Standards for Nuclear Power Operation

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is considering amending its regulations to incorporate the existing requirement for certain uranium fuel cycle licensees to comply with the Environmental

(c) In addition to other requirements of this part, licensees engaged in uranium fuel cycle operations subject to the provisions of 40 CFR Part 190, "Environmental radiation Protection Standards for Nuclear Power Operations," shall comply with that part.

2. Paragraph (f) of § 20.106 is amended, and a new paragraph (g) is added, to read as follows:

§ 20.106 Radioactivity in effluents to unrestricted areas.

(f) The provisions of paragraphs (a) through (e) of this section do not apply to disposal of radioactive material into sanitary sewerage systems, which is governed by § 20.303.

(g) In addition to other requirements of this part, licensees engaged in uranium fuel cycle operations subject to the provisions of 40 CFR Part 190, "Environmental radiation Protection Standards for Nuclear Power Operations," shall comply with that part.

3. Paragraph (b) of § 20.405 is amended, and a new paragraph (c) is added, to read as follows:

§ 20.405 Reports of overexposures and excessive levels and concentrations.

(b) Any report filed with the Commission pursuant to paragraph (a) of this section shall include for each individual exposed the name, social security number, and date of birth, and an estimate of the individual's exposure. The report shall be prepared so that this information is stated in a separate part of the report.

(c) In addition to any notification required by § 20.403, each licensee shall make a report in writing within 30 days to the appropriate NRC Regional Office listed in Appendix D, with a copy to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of levels of radiation or releases of radioactive material in excess of limits specified by 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations," or in excess of license conditions related to compliance with 40 CFR Part 190. Each report required under this paragraph shall describe the extent of exposure of individuals to radiation or to radioactive material; levels of radiation and concentrations of radioactive material involved; the cause of the exposure, levels or concentrations; and corrective steps taken or planned to assure against a recurrence.

(Section 161b, and i, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93-436, 88 Stat. 1243, Pub. L. 94-79, 89 Stat. 413, (42 U.S.C. 5841); Memorandum of Understanding between the Environmental Protection Agency and the Atomic Energy Commission, August 1973, 38 FR 24936, September 11, 1973)

Dated at Washington, D.C., this 11th day of April, 1980.

For the Nuclear Regulatory Commission:
Samuel J. Chilk,

Secretary of the Commission

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