

Wyoming Mineral  
Corporation



PROJECT NUMBER  
PROPOSED RULE PR-74

31

45 FR 81058

LRP-81-047

3900 So. Wadsworth Blvd.  
Lakewood, Colo 80235

A Subsidiary of  
Westinghouse Electric  
Corporation

February 24, 1981



U. S. Nuclear Regulatory Commission  
Office of the Secretary  
Washington, D. C. 20555

Attention: Docketing & Service Branch

Subject: Proposed Rule, Advance Notification to States of  
Transportation of Certain Types of Nuclear Wastes,  
10CFR71.

Gentlemen:

In the Federal Register of December 9, 1980, the Nuclear Regulatory Commission requested comments from the public concerning a proposed rule making on the above subject. In response to that invitation, the Wyoming Mineral Corporation (WMC) strongly recommends that the Commission abandon the proposed rule and, in turn, inform the U. S. Congress that under the present and any foreseeable Commission requirements, no nuclear waste shipment poses a "potentially significant hazard to the health and safety of the public."

The WMC recommendation is based on a variety of considerations.

1. The historical record of the transportation of radioactive materials over a period of more than two decades demonstrates the continuing safety of radioactive materials in transport.
2. As stated in the published "Discussion of the Proposed Rule", the Commission itself in NUREG-0170 concluded that the potential risk is "small" (i.e. insignificant). The proposed rule would reverse this Commission finding without presenting any technical bases for so doing. WMC is reluctant to have the Commission establish a precedent of making technical decisions for political reasons.

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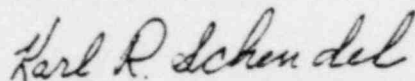
3. The Commission proposal could be construed as a tacit acknowledgement that it has been operating illegally up until now, since the mandate to protect the "health and safety of the public" has by law been its basic mission since its establishment. WMC recognizes that Public Law 96-295 includes the concept of a "potential" hazard, but surely a "potentially significant hazard" should have been proscribed under the wording of the original Atomic Energy Act.
4. The Commission's proposal provides no demonstrable benefit, other than providing an arbitrary and inappropriate response to Public Law 96-295. Accepting the NUREG-0170 projection of 24,000 shipments annually, simple arithmetic results in an average figure of 480 shipments per week. Under the proposed requirements for a seven day period of departure, late shipments overlapping into a given week and early shipments from the following week being considered, nearly a thousand shipments could foreseeably be enroute to a very limited number of destinations at random intervals over a seven day period. WMC fails to see that such a mass of generalized information would in fact serve any useful purpose. On the other hand, the fact that the Commission has proposed a seven day period for departures and arrivals is evidence that any attempt to require more explicit information is unreasonable.
5. The discussion of the proposal as published contains no statements or implications that the affected state governments have been consulted regarding their reactions to this proposal, either as to its desirability or practicability. Instead, there is the veiled threat of coercion of Agreement State governments under the guise of requiring compatibility.
6. Even accepting the Commission's position that the states must receive some type of notification to comply with Public Law 96-295, WMC can see no purpose or necessity for including the NRC's Director, NMSS, as requiring duplicate notification.

7. Finally, the proposal contains no indication that a cost benefit analysis was carried out for the solution proposed by the rule making. As indicated in Comment No. 1, the historical record of performance of the industry is excellent, and there is no justifiable reason to expect this situation to change drastically. On the other hand, a conservative assumption that the average shipment would pass through four states would require the preparation and posting of 200,000 letters annually. The postage alone would cost \$30,000. If it costs as much to receive and process a letter as it requires to prepare one, the simple act of circulating those 200,000 letters could reach \$2,600,000. Then the added internal work at both ends that would be required to provide the necessary internal notifications and records could easily double that figure. In summary, the Commission is proposing that industry and the state governments expend more than \$5,000,000 per year on a system of notification that is not really practical and is only implicit politically.

WMC trusts that the Commission will re-evaluate its obligation with respect to the U. S. Congress, that it will concur with the recommendation extended by WMC, and will inform the Congress that in the past and in the future, the transportation of radioactive material in the commerce of the United States presents no potentially significant hazard to the health and safety of the public.

WMC appreciates this opportunity to express its position on the subject proposed rule making. If you have any questions or require further information regarding our position, please contact me at the above address or telephone me at (303) 988-8530.

Very truly yours,



K. R. Schendel, Manager  
Licensing Administration

KRS/pn

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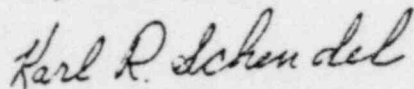
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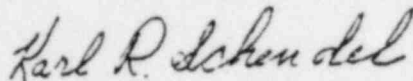


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