

MAR 14 1994

Mr. James E. Gilchrist
Vice President
Environmental Affairs
American Mining Congress
1920 N Street N. W., Suite 300
Washington, DC 20036

Dear Mr. Gilchrist:

On March 9, 1994, the U.S. Nuclear Regulatory Commission staff participated in a conference call with representatives of the American Mining Congress (AMC); Shaw, Pittman, Potts, and Trowbridge; and Quivera Mining Company. The purpose of the call was for NRC staff to provide comments on AMC's March 1, 1994 memorandum to its Uranium Environmental Subcommittee and participants in the AMC/NRC March 16-17, 1994, workshop. Specific comments on the memorandum are provided in the enclosure. If you have any comments or questions concerning the summary, please contact Sandra Wastler of my staff at (301) 504-2582.

Sincerely,

ORIGINAL SIGNED BY

Joseph J. Holonich, Acting Chief
Uranium Recovery Branch
Division of Low-Level Waste Management
and Decommissioning
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated
cc: See attached list

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Subject: NRC COMMENTS ON AMC 3/1/94 MEMO TO WORKSHOP PARTICIPANTS

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U.S. NUCLEAR REGULATORY COMMISSION COMMENTS
ON THE AMERICAN MINING CONGRESS MARCH 1, 1994, LETTER TO
MARCH 16-17, 1994, AMC/NRC WORKSHOP PARTICIPANTS

1. American Mining Congress (AMC) commented in Section 3 of its memorandum that the language in the subparagraph (b) of the proposed performance-based license condition (PBLC) is too restrictive. Therefore, AMC suggested that the word "significant" be inserted after the word no in each of the following PBLC Sections: (b) (2) and (3) "no degradation in;" (b) (4) "no impact;" and (b)(6) no reduction."

The present wording is consistent with the degree of flexibility permitted by the Commission through regulation or by the staff in license conditions. Therefore, including the term "significant" would exceed the discretionary grant of regulatory authority the staff is able to provide. However, in its Commission paper on the regulatory reduction effort, the staff will inform the Commission, and if directed will make the proposed change.

2. AMC commented in Section 4 of its memorandum that "licensees can provide themselves with some protection by notifying NRC in writing (preferably certified mail, return receipt requested) and orally of the proposed modification which the licensee plans to implement after 'x' number of days unless NRC notifies the licensee of an objection."

It is the staff's position that a lack of a notification of objection by the Nuclear Regulatory Commission (NRC) does not rule out NRC determining at a later date, a concern or problem with the licensees proposed change. The NRC reserves the right to correct the misuse or misapplication of discretionary actions.

3. The discussion section under AMC Example 6 (c) regarding changes to licensee's corporate structure, should state that besides a change in ownership, a change in the "control of the license" also requires notification and a request for an amendment.
4. AMC Example 4 regarding byproduct disposal of 11e.(2) material without individualized license amendments is confusing. As it currently reads the licensee is requesting authorization to dispose of 11e.(2) byproduct material for its facility at any site licensed by the NRC or the agreement state to receive and dispose of such waste. Licensees already have this authority, therefore, AMC needs to more clearly focus the example. However, for a mill receiving waste from offsite, the licensee cannot use the PBLC to change the specifics for disposal provided in existing license conditions.
5. The discussion under AMC Example (6) states that "modifying a bioassay program such as by reducing the number of people subject to the program as a result of a reduction in personnel would not require a license amendment." The bioassay program, as described in NRC regulatory guidance, requires sampling for a percentage of the workers, not a specific number of workers that have to be sampled. Therefore, a license condition which requires bioassay in accordance with the regulatory guidance, already allows reduction in the number of samples without an amendment.
6. The discussion under AMC Example (7) states that "NRC indicated that changes in decommissioning plans need to be submitted for approval as an amendment." However, changes to the decommissioning plan, unless specifically excluded in the PBLC, would not necessarily require a license amendment, if the licensee determined that the specifics of the PBLC were met.

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