



PROPOSED RULE PR 20
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WYOMING MINING ASSOCIATION

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OFFICE OF SECRETARY
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BRANCH

HITCHING POST INN
P. O. Box 866
Cheyenne, Wyoming
82003

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555
ATTN: Docketing and Service Branch

Gentlemen:

The Wyoming Mining Association (WMA) is an industry association of mining companies and associates (suppliers, contractors, service companies etc.) in the State of Wyoming. The WMA's membership includes a number of uranium recovery licensees licensed by the Nuclear Regulatory Commission (NRC). The following are the Wyoming Mining Association's comments on the draft proposed rule on radiological criteria for decommissioning:

1) **Applicability to Uranium Mills**

The WMA supports the exemption to these proposed regulations for uranium mill tailings sites (the disposal of uranium mill tailings) discussed on page four (4) of the draft. This discussion states that the proposed criteria should not apply to the disposal of uranium mill tailings since mill tailings disposal is already covered under 10 CFR 40 Appendix A. The WMA believes that this exemption should be extended to the decommissioning of uranium recovery facilities, as well, for the following reasons:

- a) The draft proposed rule states, "*Current regulations do not explicitly address radiological criteria for decommissioning.*" Specific radiological criteria are already established in the regulations for uranium recovery licensees. The decommissioning standards for residual radioactivity are already established for uranium recovery sites in Environmental Protection Agency regulations (40 CFR 192). These regulations (specifically 40 CFR 192 Subpart B) establish specific standards for cleanup of land and buildings contaminated with residual radioactive materials from inactive uranium processing sites. In addition to establishing specific standards for cleanup of land and buildings, it also establishes specific allowable residual gamma radiation levels.

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- b) This subpart is under Environmental Protection Agency Regulations and should be covered under the Memorandum of Understanding (MOU) between EPA and NRC dated March 16, 1992, which, in the section titled **Principles**, states: "*Avoid unnecessary duplicative or piecemeal regulatory requirements for NRC licensees.....*"
- c) Uranium recovery sites (in addition to tailings disposal sites) are already covered by specific radiologic decommissioning standards written into 40 CFR 192, which are in turn covered by the Memorandum of Understanding (MOU) between NRC and EPA of March 16, 1992, and as such, additional regulation would be duplicative and would be inconsistent with the remainder of the draft proposed rule which exempts certain facilities already covered under 10 CFR Parts 60 and 61.

2) **EPA/NRC Jurisdiction**

The WMA supports the statement on page twelve (12) in the draft proposed rule which says, "*The EPA efforts could then focus on the site cleanup standards for non-NRC licensed sites, such as DOE and DOD facilities. This is consistent with the principles and procedures set forth in a recent Memorandum of Understanding between the NRC and EPA to guide each agency's actions in areas of mutual regulatory concern.*"

Currently the radiologic standards for decommissioning of uranium recovery sites are incorporated in EPA regulations (40 CFR 192). The Wyoming Mining Association believes that the radiologic cleanup standards for uranium recovery sites already in the EPA regulations should be transferred, unchanged, to existing NRC regulations in 10 CFR Part 40 and uranium recovery sites exempted from any additional regulations in this proposed rule, since radiological decommissioning standards are already in place.

3) **Release for Restricted and Unrestricted Use**

The WMA supports the use of both restricted and unrestricted use in the proposed rule. This system is similar to the one used for uranium mill tailings disposal sites in which the reclaimed tailings impoundment is transferred to the control of the Department of Energy along with sufficient funds (\$250,000.00 in 1978 dollars) to cover perpetual care once the licensee has completed reclamation and effected the transfer.

4) **Radiological Criteria/Demonstrating Compliance**

The draft proposed rule establishes "*a dose limit for release for a site of 15 millirem per year (TEDE) for residual radioactivity distinguishable from background and require that the licensee reduce this residual radioactivity to as close to the goal of indistinguishable from background as reasonably achievable.*" The draft proposed rule also states "*... the Commission would consider that this objective had been met if the cumulative TEDE to the average member of the critical group*

from all radionuclides that could contribute to the residual radioactivity and are distinguishable from background does not exceed 3 mrem (0.03 mSv) per year". These low doses will be difficult if not impossible to accurately measure and demonstration of compliance will be difficult. The background dose at one WMA member's site exhibits marked variations over time and with the change of seasons, especially in regard to ambient radon levels. Given the large variance in radon levels at this site, determining if a dose were related to variations in background or to residual radioactivity at the site would be difficult, if not impossible. In the case of this site, good preoperational radiological data and upwind radon data is available to establish background for the site. In the case of many older sites, high quality background data is not available, so it may be difficult, if not impossible, to establish background to the level of precision required by this draft proposed rule.

Background Total Effective Dose Equivalents (TEDE's) can be quite high, especially when the dose from radon and its daughters is included. The background doses from airborne particulates can also be high and seasonally variable. Certain areas of the United States are exposed to wind-blown dust from evaporation pans and other areas in which naturally occurring uranium and radium levels are high. Areas such as these can be subject to seasonally variable doses from the airborne dust. It will be difficult to assess the dose from the decommissioned facility given the seasonally variable background "noise" from airborne particulates.

The draft proposed rule, in Section 15, discusses the problems associated with measuring radon concentrations which will yield radiation doses of a few millirems. It states that *"exposure to radon at decommissioned sites would be controlled by requiring the licensee to reduce the residual concentrations of radon precursors like uranium, thorium, and radium to levels within the limit for unrestricted use and using the ALARA principle, toward levels which are indistinguishable from background levels."*

In spite of this, it still will be difficult to assess compliance with this proposed standard, especially in areas involving both uranium mining and milling activities. Uranium milling activities are regulated by the NRC or an Agreement State and the draft proposed rule would apply to these sites but uranium mining sites are exempt from NRC or Agreement State Regulations under 10 CFR 40.13 (B).

5) Finality

Given the cost of decommissioning, licensees need some assurance that compliance with the regulations would yield final site release and that the decommissioning would not be reopened at some future date. The draft regulation attempts to provide this in 20.1401(c) but the preamble to the proposed rule states, *"...the NRC recognizes that there may be legitimate needs for additional remedial actions in the future if significant additional contamination*

is discovered at a site or if the technical basis on which the criteria are founded changes significantly..." This statement concerning "...*the technical basis on which the criteria are founded...*" opens the door for revisitation of the decommissioning of sites and erodes the finality of license termination upon satisfactory decommissioning.

6) **Waste Disposal**

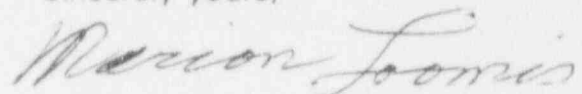
These proposed standards will generate large amounts of waste which must be placed for disposal in some type of disposal site. New disposal sites are difficult to site due to the reaction of nearby residents. The existing disposal capacity in this nation is limited. In order for these regulations to be effective, sites must be available to place the large volumes of waste generated by these more stringent criteria specifically the requirement to remove "...*all readily removable residual radioactivity...*", or proliferation of numerous small sites will result. The statement that this requirement "...*also does not include removal and transport of soil except in those instances where small discreet areas of contamination can be removed by digging up a few shovels full of soil*" helps reduce somewhat the large volumes of material which could potentially be generated. Including previously buried materials on site in the category of residual radioactivity, potentially forcing their exhumation and disposal elsewhere adds to the amounts of waste requiring disposal at a licensed waste facility.

7) **Radioactive Materials Previously Disposed of at the Site**

The WMA believes that the decision to include previously disposed of materials at the site in the decommissioning is unfair to the licensee. When these materials were disposed of at the site, the licensee believed that this disposal was a final act and that the problems related to these materials were addressed. The licensee is now being forced to revisit the disposal of these materials. This issue relates directly to the finality of any action related to an NRC or agreement state license.

The Wyoming Mining Association thanks the Nuclear Regulatory Commission for the opportunity to comment on these draft proposed regulations. If you have any questions please do not hesitate to contact me.

Sincerely yours,



Marion Loomis
Executive Director