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**POLICY ISSUE**  
(information)

March 18, 1994

SECY-94-074

FOR: The Commissioners  
FROM: James M. Taylor, Executive Director for Operations  
SUBJECT: PLAN OF ACTION FOR RULEMAKING ON PART 40, LICENSING OF SOURCE MATERIAL

PURPOSE:

To inform the Commission of the current staff plans with regard to the updating of 10 CFR Part 40, Licensing of Source Material, taking into account the public comments received on the Advance Notice of Proposed Rulemaking (ANPRM) published on October 28, 1992 (57 FR 48749).

SUMMARY:

The staff has reviewed the comments submitted in response to the ANPRM and has updated overall plans for rulemaking giving consideration to the comments received and the current status of related activities. The plans address the basic scope of rulemaking and describe an approach to handling the various issues in a number of different actions. Such an approach was discussed in the ANPRM.

BACKGROUND:

In an SRM dated October 13, 1989, and reiterated in SRM's dated July 28, 1990 and March 19, 1991, the Commission directed the staff to reevaluate existing exemptions of radioactive material from regulatory control. The staff conducted a preliminary reevaluation of the exemptions contained in Parts 30 and 40 and initiated a contract to reevaluate the potential public exposures resulting from the use of these exemptions. As a result of its preliminary reevaluation, the staff concluded that the control of source material distributed for exempt use should be improved by making the requirements for distributors of exempt source material contained in Part 40 more comparable to

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requirements for distributors of exempt byproduct material and products contained in Part 30. The staff also concluded that an annual reporting period (in place of 5 years) should be reinstated for the distribution of byproduct materials for exempt use. Noting that the control of source material distributed for use under the general license in § 40.22 also needed improvement, the staff recommended that the regulations pertaining to source material should be reviewed overall for updating needs (both of these actions were addressed in SECY-90-345).

In the SRM dated March 19, 1991, which responded to SECY-90-345, the Commission directed the staff to develop an ANPRM announcing the Commission's intent to reexamine and update Part 40 specifically to be more consistent with Part 30 and the revised standards for radiation protection in Part 20. This same SRM directed the staff to resume an annual period for reporting of byproduct material distributed for exempt use. The ANPRM was developed by the staff, approved by the Commission in an SRM dated October 6, 1992 (responding to SECY-92-280), and published on October 28, 1992. The ANPRM discussed a number of issues that the staff had identified for consideration in rulemaking and invited public comment on those issues as well as any others commenters could identify with respect to updating Part 40. The ANPRM also noted the ongoing effort to reevaluate specific exemptions from licensing in both Parts 30 and 40. A copy of the ANPRM is included as Enclosure 1 for ease of reference.

The discussion of issues in the ANPRM was categorized into four major elements: exemptions, general licenses, specific licenses (other than mills), and mills and mill tailings. The following briefly summarizes the issues presented in the ANPRM for each of these areas.

Exemptions: The basic issue in the ANPRM concerning exemptions was improving the control of source material released to unrestricted use through more specific requirements on licensees who commercially distribute products or materials to exempt persons.

General Licenses: The issues raised for generally licensed source material were (1) whether the activities authorized in the general license in § 40.22 are sufficiently limited so that the workers and the general public are adequately protected, and (2) whether the general license in § 40.25 is effective in the current regulatory environment.

Specific Licenses (other than mills): The primary issue for consideration was whether licensing requirements in Part 40 should be made more specific and tailored to major categories of use.

Mills and Mill Tailings: There were six issues discussed in the ANPRM: (1) whether to amend the regulations to authorize the use of feed materials other than natural ore in uranium mills; (2) whether to amend the regulations to address requests by mill licensees to dispose of waste materials that do not meet the definition of byproduct material into tailings impoundments; (3) how best to amend Part 40, Appendix A, to conform to the Environmental Protection

Agency (EPA) amendments to 40 CFR Part 192, Subpart D, to address Clean Air Act requirements; (4) whether to amend the regulations to address the licensing of a commercial disposal site for mill tailings, including wastes from in-situ extraction operations; (5) whether to amend the regulations to address the disposal of waste from in-situ leaching operations at the leaching site; and (6) whether to initiate a rulemaking to address the obligation of the NRC in § 84a(3) of the Atomic Energy Act to obtain EPA concurrence that the NRC's regulations for uranium mill tailings are comparable to EPA requirements applicable to similar wastes under the Solid Waste Disposal Act (SWDA).

#### DISCUSSION:

The comment period on the ANPRM ended on January 26, 1993. Copies of the ANPRM were distributed to all materials licensees. Copies of NUREG/CR-5881, a contractor report prepared to support the ANPRM, were included in the distribution to licensees categorized primarily as source material licensees.

Fifteen comment letters were received. The commenters included NASA, three States, and one public interest group; the remaining were industry or industrial organizations, some of which were licensees and some not, and included four representing the mining and milling industry.

The commenters were generally supportive of the need for change, although a number of concerns and questions were raised in specific areas. Nothing in the comments leads the staff to change the basic preliminary plans made in developing the ANPRM. The comments focused almost entirely on the specific issues discussed in the ANPRM and NUREG/CR-5881. The comments have been reviewed and resolved to the extent necessary to determine an overall plan of action for rulemaking. Some details of the resolution of the comments will be addressed during development of applicable rulemaking. A general discussion of the comments and staff responses for the four elements mentioned above, as well as a few issues raised which were outside the scope of rulemaking and the options for rulemaking, is included as Enclosure 2.

Overall plan for Rulemaking: An outline of the plan for rulemaking (with tentative schedules) is provided as Enclosure 3. The plan includes four rulemakings, one of which has already been initiated (and a proposed rule has been published). The four are: non-mill issues, phase I and phase II; conforming Appendix A to recent revisions of 40 CFR Part 192; and other mill issues. The following discusses this plan:

*Non-mill issues.* The possible need for a two step approach to the revision of Part 40 (specifically because of information needs in the areas of exemptions and general licenses) was discussed in the ANPRM and NUREG/CR-5881. Although some information was provided by the commenters concerning the use of the exemptions and the § 40.22 general license, it was not extensive enough to support a single comprehensive revision of Part 40. The two step approach suggested in NUREG/CR-5881 and the ANPRM appears appropriate and more efficient. This approach called for a phase I rule which would improve

control of materials distributed to exempt use and to § 40.22 general licensees as well as provide the information needed to support potential additional controls to be addressed in a phase II rulemaking.

*Phase I.* As proposed in the ANPRM, the phase I rule would consider requirements that: (1) distribution of source material to persons exempt from licensing and to persons using the general license in § 40.22 be made under a specific license; (2) distributors report annually the quantities of materials distributed under exemption (in the case of products, the quantity per product and the number of products); and (3) distributors of source material for use under § 40.22 report on a quarterly basis the quantities distributed and the identities of general licensees to whom materials were distributed.

The addition of a provision for the Sealed Source and Device Registry System to Part 40 is the only other change identified through this action for non-mill specific licensees. It is planned to also include this change in phase I as it does not depend on the information to be obtained through this first rulemaking and is a simple, non-controversial amendment. In addition, because (1) the phase I rule is limited primarily to reporting by distributors and (2) the parallel lower priority rulemaking to reinstate annual reporting periods in place of 5-year reporting for distributors of products exempt under Part 30 has not progressed as a result of higher priority efforts, it now appears more efficient use of staff resources to combine this effort into the phase I rule as well. A combined effort would also help to assure consistency between Parts 30 and 40 in this area. The staff plans to prepare the phase I rule for EDO signature as it does not involve a significant policy issue. It is expected to take approximately 20 months to complete this action. This rulemaking action will be titled "Distribution of Source and Byproduct Material: Licensing and Reporting Requirements."

*Phase II.* A phase II rule would be undertaken at least 1 year after completion of the phase I rulemaking. Additional time might be necessary to develop an adequate data base for decisionmaking. The timing would depend in part on details concerning the timing of submittals of information in the phase I rule (e.g., whether calendar year data is required, how much time is allowed after the end of the reporting period to submit report, etc.). The information gained as a result of the phase I rulemaking would provide a basis for determining what additional changes are appropriate in the area of exemptions and the general license in § 40.22. The phase II rulemaking would consider such things as QA requirements for manufacturers/distributors of exempt products, labelling requirements for various exempt products, and further restrictions on quantities of source material or its uses under the § 40.22 general license. Phase II might ultimately be combined with any effort to eliminate or modify specific exemptions as a result of the reevaluation of exemptions.

*Mill issues (Conforming to 40 CFR 192, Subpart D).* The separate rulemaking to conform Appendix A of Part 40 to EPA's regulations in 40 CFR Part 192, Subpart D should be completed by May 1994 so that EPA may take final action in June 1994 to rescind Subpart T before its stay expires. The other rulemaking



actions in this plan will not be started until the conforming rule is completed. Note, in the Memorandum of Understanding that began the process to rescind Subpart T, the involved agencies also agreed to work toward elimination of the dual regulation presented by Subpart W of 40 CFR Part 61, which applies to operational mill tailings piles. To date, no further discussions have taken place with regard to subpart W. Thus, it is premature for this plan to specifically cover any future actions that may be undertaken. However, if it becomes necessary for NRC to pursue that process through rulemaking, the application of resources could impact the schedule for the planned revisions to Part 40.

*Mill issues - Other.* In addition to the six issues in the area of mills and mill tailings discussed in the ANPRM, a seventh issue had been identified by the staff which concerned the application of siting criteria to existing mill tailings sites. This issue was purposely omitted from the ANPRM because it relates to the West Chicago case which was under appeal to the Commission at the time. Although this case has not been fully resolved, the staff holds the view that Criterion I of Appendix A concerning siting of tailings piles should be clarified. *Criterion I* contains the considerations to be made in siting and design decisions for mill tailings disposal sites. The licensing staff believes that the application of the considerations in *Criterion I* to an existing site should be different than in the case of a potential new site. The West Chicago Atomic Safety and Licensing Appeal Board (ASLAB) interpretation that they should be applied in the same manner is contrary to the licensing staff's position. Consideration of whether such a distinction would be appropriate for any other criterion in Appendix A should also be made.

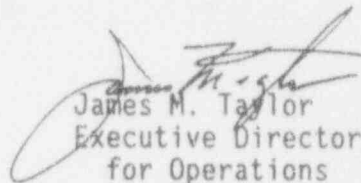
With the addition of this issue, the remaining mill issues would involve amendments in three areas: the definition of ore, clarification of requirements applicable to independent commercial tailings disposal, and clarification of *Criterion I* of Appendix A. These changes would be intended to clarify the regulations to reflect the Commission's and/or staff's existing interpretations, would have limited impact on ongoing licensing practices, and are in no way tied in with the other issues being considered. Because of this and because of the need to coordinate rulemaking affecting mills with other related activities, e.g. licensing actions on Envirocare and revision of mill tailings guidance documents (which are discussed in Enclosure 2), these issues can more efficiently be handled in a separate rulemaking. The schedule will be worked out with coordination between the appropriate staff offices after further progress in completing the related activities and the rulemaking conforming to 40 CFR Part 192, Subpart D. This rule would be handled essentially in parallel with the non-mill-issues rulemakings.

RESOURCES:

Resources for both rulemaking and implementation of the mill rule conforming Appendix A of Part 40 to EPA standards are included in the FY 1994-1998 Five-Year Plan (FYP). The other updates of Part 40 will be accomplished with three additional rulemaking actions. Resources are included in the FYP to conduct these rulemaking actions. However, the resources for the implementation of these three rules have not yet been included in the FYP. Resources for the implementation of the phase I non-mill rule will be addressed during the preparation of the FY 1995-1999 FYP. Resource needs for implementation of the phase II non-mill and the second mill rulemakings will be addressed as each is developed.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

  
James M. Taylor  
Executive Director  
for Operations

Enclosures:

1. ANPRM (October 28, 1992; 57 FR 48749)
2. Summary of comments and staff responses
3. Outline of plan for rulemaking

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against radiation. This advance notice of proposed rulemaking is being issued to solicit comments and recommendations from interested parties on the issues that have been identified as candidates for consideration in this rulemaking.

**DATES:** Comment period expires January 26, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Mail comments or suggestions to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm Federal workdays.

Examine copies of comments received at: the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Copies of NUREG-1324 and NUREG/CR-5881 which support this advance notice may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Catherine Mattsen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3636.

**SUPPLEMENTARY INFORMATION:**

**Background**

Source material, which consists of uranium or thorium, is a naturally-occurring low specific-activity material. The regulations in 10 CFR part 40 were initially based on the assumption that the health and safety impacts of source material were low and that considerations of protecting the common defense and security were most significant. Since 10 CFR part 40 was first promulgated on March 20, 1947 (12 FR 1855) by the Atomic Energy Commission (AEC), the provisions of 10 CFR part 40 have not been systematically reviewed for effectiveness and consistency with other NRC (AEC) regulations except for the overall revision of 10 CFR part 40 on January 14, 1961 (26 FR 284) to establish licensing procedures, terms, and conditions for source material which

were substantially similar to those set forth for byproduct material in 10 CFR part 30. Therefore, the existing structure and general requirements have not been evaluated for conformance with the current radiation safety standards and current industry needs, practices, and capabilities.

Some of the exemptions from licensing for certain consumer products, such as gas mantles containing thorium, have not been modified since they were included in the original promulgation of 10 CFR part 40. These exemptions essentially accommodated existing practice. However, consistent with a policy statement on consumer products published on March 16, 1965 (30 FR 3462), the Commission has made various evaluations of potential doses from exempt products to assure that exposures from any individual exempt practice do not exceed a small fraction of the overall recommended dose limit for the public and that the combined effect of exposures from various exempt practices does not result in a significant impact to public health and safety. The recent revision of 10 CFR part 20 published on May 21, 1991 (56 FR 23360) contains standards for radiation protection and decreased values for permissible concentrations in air and water effluents containing uranium and thorium. These revisions suggest the need for a reevaluation of the potential doses from exemptions because the new biological data and dose calculation methodology reflected in the revised standards for protection against radiation could result in changes in some of the dose estimates. In addition, various radiation protection standards organizations (e.g., the International Commission on Radiological Protection, the National Council on Radiation Protection and Measurements, etc.) have recommended reduction in overall doses to the public. Thus, the Commission decided to review the potential doses from existing exemptions and to reevaluate the adequacy of controls to assure that materials and products distributed under an exemption do indeed meet the limitations provided for that exemption.

A preliminary analysis suggested that the regulations in 10 CFR part 40 governing the control of source material released for unrestricted use may be improved by making them more comparable to those governing similar exemptions for byproduct material (10 CFR part 30). This would result in more specific requirements being imposed on licensees who distribute products or materials used under an exemption and

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 40**

RIN 3150-AE33

**Licensing of Source Material**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is considering amending its regulations governing the licensing of source material and mill tailings. The contemplated rulemaking would consider revisions to improve control of source material through more specific regulation and to update the applicable requirements to conform with the revised standards for protection



for applicants for a license planning this type of distribution.

The Commission is also concerned with the degree of control of material and how it has been used under the general license in § 40.22. Therefore, the Commission was planning to reevaluate this issue.

The Commission has decided to review all of 10 CFR part 40 and, in particular, to consider the need for updating requirements pertaining to source material to make them more comparable to similar requirements for byproduct material. The Commission is also considering the extent to which the requirements in 10 CFR part 40 should be updated to conform to the revised standards for protection against radiation. Although this review has not been a systematic point-by-point analysis of all of 10 CFR part 40, the Commission has solicited questions and concerns from knowledgeable NRC staff, from outside consultants, and from the Agreement States. This Advance Notice of Proposed Rulemaking (ANPRM) presents the issues identified and preliminary views. The Commission is issuing this ANPRM to solicit input from all interested parties.

The NRC staff discussed the idea of an ANPRM with the Agreement States at a public meeting held in conjunction with their October 1991 annual meeting at Sacramento, CA. By letter dated January 3, 1992, the NRC staff followed up the meeting with a request for further information concerning areas or issues that should be addressed in a revision of 10 CFR part 40. Of the 28 Agreement States, a total of 15 States responded of which 7 States responded with no comment. The Agreement States that commented indicated 12 general areas that need to be evaluated. The NRC has considered all general areas of concern in the development of this ANPRM.

Although several States suggested specific changes to the current wording of 10 CFR part 40, the NRC will delay consideration of these specific changes until the initiation of a proposed rule in order to collect views from a broad spectrum of interests prior to initiating the drafting of specific regulatory language. The NRC summary of comments from the Agreement States is available from the staff contact listed in the address heading, and is available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

#### Issues Being Considered for Proposed Rulemaking

The following discussion presents the issues identified as candidates for

consideration in rulemaking. This discussion is categorized into the four major elements which include all aspects of source material regulation: exemptions, general licenses, specific licensing for other than mills and tailings, and milling and mill tailings. A more detailed discussion of the issues addressed in this notice is contained in a contractor report on options for rulemaking on revision of 10 CFR part 40, NUREG/CR-5881, "An Examination of Source Material Requirements Contained in 10 CFR part 40." October 1992.

#### Exemptions

The Commission is considering whether to propose regulations to improve the control of source material released to unrestricted use through more specific requirements on licensees who sell, transfer, or distribute products or materials to exempt persons.

Controls that will be considered to achieve consistency with the requirements governing byproduct material in 10 CFR part 30 include:

- (1) Specific requirements on the manufacturers of products, such as a quality assurance program, that would provide assurance that the products distributed meet the specifications important to safety,
- (2) A requirement for specific license authorization to commercially distribute, or import for commercial distribution, products for use on a license exempt basis, and
- (3) Periodic reporting by the manufacturer or importer of the types and number of products and quantities of source material distributed so that the nature and extent of use is readily available to the Commission and other interested parties.

In addition, the Commission is reevaluating potential doses from materials and products which are exempt from licensing. On the basis of this study, those exemptions with significantly greater potential doses will be further reevaluated on a cost-benefit basis. A determination will then be made if any particular exemptions should be modified or revoked. This process will take some time to complete and, in order to have a firm basis for rulemaking, the Commission may need to obtain more complete information on those products and materials containing source material that are being distributed for exempt use.

While soliciting issues for consideration in the updating of 10 CFR part 40, the issue was raised concerning the exemption of source material under the 0.05% weight concentration contained in § 40.13(a). This exemption

will be reevaluated along with the others in parts 30 and 40.

#### General Licenses

The issues raised concerning generally licensed source material are:

(1) Whether the quantity of source material and activities authorized in the general license in § 40.22 are sufficiently limited and defined so that the workers and the general public are adequately protected, and

(2) Whether the general license in § 40.25 is effective in the current regulatory environment.

The NRC staff has been concerned with improving the control of material used under general license, particularly as authorized by 10 CFR 40.22. General licenses are in effect without the filing of applications with the Commission or the issuance of licensing documents to a particular person. The safety principle underlying the general license is based on limitations on the type, form, and quantity of material and restrictions on the type of activities that are permitted.

Section 10 CFR 40.22 provides a general license authorizing commercial and industrial firms, research, educational, and medical institutions and Federal, State, and local government agencies to use and transfer not more than 15 pounds of source material at any one time for research, development, educational, commercial, or operational purposes. Under this general license, a person may not receive more than a total of 150 pounds of source material in any one calendar year. The underlying principles of the general license are:

- (1) That the source material will be used in a responsible manner by institution and agencies; and
- (2) That it will be afforded an appropriate degree of radiation safety control through the safety controls applied to its use as a chemical compound. The quantity limits appear to have been established to preclude substantial processing or production operations that might cause safety problems for workers. In a recent enforcement case processed by the NRC staff (SECY-92-128),<sup>1</sup> the general licensee conducted operations that, although allowed by the regulations, were not evaluated in the development of the regulations and appear to have a potential for inappropriate radiation exposure. Therefore, in the current regulatory environment, these conditions may no longer be adequate in

<sup>1</sup> This document is available for inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.



affording a proper level of safety. The Commission is conducting an analysis of the activities that are currently authorized in the general license to determine what controls, if any, should be established to improve the effectiveness of this general license.

Since there is no reporting or registration requirement imposed on distribution of source material under this general license or on the users, the extent of use of this general license is not well known.

There are several actions that could be taken, either individually or in some combination, to provide greater assurance of safety under this general license:

(1) The Commission could require that either general licensees be registered or that commercial transfers to general licensees be reported on a quarterly basis in the same manner as in 10 CFR 32.52. These actions would identify users of source material and would permit the implementation of an inspection program.

(2) The Commission could reduce the quantities of source material authorized under the general license to levels which provide greater assurance of safety.

(3) The Commission could limit the scope of activities permitted under the general license to those which are less likely to result in radiation exposure problems.

(4) The Commission could include requirements that would provide adequate controls over release of effluent and disposal of radioactive waste, as appropriate, and

(5) The Commission could require that commercial distribution of source material for use under the general license be performed only by a specific licensee. This would provide a means for the Commission to require that the transfers be accompanied by safe handling instructions or other information (as in 10 CFR 32.71(e)).

Any new conditions on the general license, such as quantity limits or activity restrictions, would be developed taking into account the radiation dose limits, effluent concentrations, and waste disposal provisions of the revised standards for the protection against radiation.

The general license in § 40.25 governs the use of certain industrial products or devices containing depleted uranium. This general license contains requirements for reports from licensees of distribution for use under the general license and for registration certificates from these general licensees. An issue with this general license is its possible lack of effectiveness and lack of understanding by the regulated

community. Although the Commission has not issued any licenses authorizing distribution under § 40.25 and there is very limited use of comparable provisions by Agreement States, there are many industrial products and devices used under specific licenses that are candidates for use under the § 40.25 general license.

This general license and the licensing requirements in §§ 40.34 and 40.35 will be reviewed to determine if justifiable changes could be made to make the general license more useful to the regulatory program. Expanded use of products and devices under this general license would reduce the burden on both licensees and the NRC staff that now exists by reducing current specific licensing activity. For example, source material used for shielding under a specific license may be a candidate for use under a revised § 40.25 general license. The public is specifically invited to suggest mechanisms which would improve the effectiveness of the general license, while at the same time providing adequate protection of health and safety.

#### Specific Licensing

The basic issue raised was whether licensing requirements for specific licenses should be made more specific or detailed and whether the licensing requirements should be tailored to major categories of use.

License requirements fall into three types:

(1) Information required to be submitted to the NRC in support of an application,

(2) Requirements for issuance of specific licenses, and

(3) Terms and conditions of licenses.

Section 10 CFR 40.31 states that an application may be filed on NRC Form 313, "Application for Material License." This form requests information about the applicant's training and experience, equipment and facilities, and radiation protection program. However, the form does not request safety information specific to any given category of use. Thus, the NRC staff develops regulatory guides which specify the type of information to be provided in an application for a particular category of use. The NRC staff has also used specific license conditions to control activities conducted by licensees within a certain category of use. This approach enables the NRC staff to tailor the licensing requirements necessary for health and safety to the particular activities being proposed by an applicant.

However, other provisions in 10 CFR part 40 specify detailed information

requirements for certain aspects of an operation such as emergency planning for activities involving greater than specified quantities of uranium hexafluoride (UF<sub>6</sub>) and financial assurance and recordkeeping for decommissioning for licensees possessing more than specified quantities of source material. Licensing requirements for milling and mill tailings are comprehensive and presented in appendix A to 10 CFR part 40. The requirements for licenses to manufacture and distribute industrial devices and products for use under the general license in § 40.25 are spelled out in considerable detail in § 40.34(a).

The requirements for issuance of specific licenses and the conditions of licenses specified in 10 CFR Part 40 are generally stated and applicable to all licenses, except for the case of licenses involving distribution of devices and products to be used under the general license in § 40.25. A number of detailed conditions for these licenses are spelled out in §§ 40.34 and 40.35.

Generally, if a category of use involves a number of firms conducting similar activities, and regulatory requirements can be developed which are applicable to all users within a category, it is a desirable practice to include the requirements in the regulation. This provides a stable framework for the guidance of licensees, NRC staff, and other interested parties.

However, except for regulations governing the milling and mill tailings, this practice is not followed with respect to 10 CFR part 40 licenses. There are about 200 NRC 10 CFR part 40 licenses and these licenses authorize a wide variety of activities. Source material may also be used under specific licenses which are primarily for byproduct material. For example, a teletherapy license for a 3,000 Curie Co<sup>60</sup> source may also provide for the use of up to several hundred pounds of depleted uranium as shielding in the teletherapy unit. Source material activities are also licensed by Agreement States.

Even within a given category of use, the licensed activities may have significant differences. For example, there are only two UF<sub>6</sub> production plants under license and each uses a different technology to convert uranium oxide to UF<sub>6</sub>. Thus, generally applicable requirements for a category of use would necessarily be general in nature and specific requirements related to the individual licensee's activity would still need to be imposed.

Given the broad nature of the uses of source material, it is not clear whether there is a sufficient benefit from

developing more specific licensing criteria for inclusion in the regulation that would be based on category of use. However, as indicated in the discussion of 10 CFR part 40 exempt products, there may be a need to impose certain requirements on licensees manufacturing and distributing exempt products to assure a proper level of safety. There may also be a need to impose certain requirements on licensees who commercially distribute source material for use under the general license in § 40.22. The NRC may also consider an additional change to add sealed sources and devices containing source material that are used under a specific license to the Sealed Source and Device Registry System. This change would be consistent with comparable provisions for sources and devices containing byproduct material in §§ 30.32(g) and 32.210.

Separate from this effort, an NRC staff task force has recently completed a review of approaches to regulating materials licensees: "Proposed Method for Regulating Major Materials Licensees," NUREG-1324, published for comment in February 1992. The intent of this review was to examine all facets of the existing regulatory methods, unfettered by any existing regulations, guidance, and resource limitations, and propose an ideal method for regulating large materials licensees. The task force found that for the most part the regulations on which the licensing of large materials processors are based provide safeguards against theft or sabotage of special nuclear material and protection against exposure of workers and the public to radiation and radioactive materials. However, the task force believed that improvements in the area of process safety and managerial controls should be considered and identified. The task force also identified potential regulatory changes applicable to major material processors. However, these are idealized recommendations without cost/benefit considerations. The NRC staff is developing an implementation plan that will identify priorities for future action. If the implementation plan determines that changes to 10 CFR part 40 are appropriate, these changes would be applicable to relatively few 10 CFR part 40 licensees. It may be appropriate to consider such changes in conjunction with any comparable changes being considered for 10 CFR parts 30 and 70. Comments received on NUREG-1324 will be considered by the NRC staff developing any future rulemakings concerning 10 CFR part 40.

#### Mills and Mill Tailings

Six issues in the area of mills and mill tailings have received recent attention by the Commission. In general, these issues have been addressed by the NRC staff and regulatory positions have been established. In a few cases, the NRC staff have suggested that rule changes be made to reflect these NRC staff regulatory positions.

The first issue concerns the use of feed materials other than natural ore in uranium mills. The Commission allows the use of materials other than natural ore to be used by mills to extract source material and has developed a definition of ore as "a natural or native matter that may be mined and treated for the extraction of any of its constituents or any other matter from which source material is extracted in a licensed uranium or thorium mill." This definition assures that the tailings resulting from the extraction of source material from feed material other than natural ore meets the definition of byproduct material, which is "the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes." The words "processed primarily for its source material content" are important in preventing "sham disposal," or the addition of low level or mixed waste to mill feedstock in order to dispose of it in the tailings impoundment as byproduct material. The NRC staff has published guidance on this issue for comment (57 FR 20525; May 13, 1992). Depending on the staff's evaluation of the comments received, the Commission may propose adding this definition of ore to the regulations in 10 CFR part 40 in the future.

The second issue concerns requests by mill licensees to dispose of waste materials that do not meet the definition of byproduct material into tailings impoundments. The NRC staff has prepared and published guidance for reviewing these requests for comment (57 FR 20525; May 13, 1992). The guidance assures that only material physically comparable to 10 CFR part 40 byproduct material is disposed of in tailings impoundments, that the material is not covered by EPA standards for hazardous or toxic wastes, that there is no significant environmental impact, that appendix A is complied with, that the Department of Energy be informed and have an opportunity to comment, and that the authorization constitutes a license amendment. If many requests of this type are made, the NRC staff will

consider an amendment to the regulations to incorporate the guidance.

The third issue concerns initiation of a rulemaking to amend 10 CFR part 40, appendix A to conform the Environmental Protection Agency (EPA) proposed amendments to its regulations in 40 CFR part 192, subpart D. EPA has initiated the process, based on consensus-building discussions, to rescind the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for radionuclide emissions from uranium mill tailings disposal sites (limited to those sites licensed by the NRC or an Agreement State, not those sites under the control of the Department of Energy) in subpart T of 40 CFR part 61. One result of these consensus-building discussions was completion of a staff-level Memorandum of Understanding (MOU) which establishes the process whereby EPA will rescind 40 CFR part 61, subpart T based on a determination that the NRC's regulatory program protects public health with an ample margin of safety. The MOU was signed by NRC, EPA, and the Agreement States regulating uranium mill tailings sites (Colorado, Texas, and Washington) and published by EPA on October 25, 1991 (56 FR 55434). Supported by the MOU, EPA published a Proposed Stay of Effectiveness of subpart T in the Federal Register on October 25, 1991 (56 FR 55432). On December 31, 1991, EPA published a Final Stay of Effectiveness (56 FR 67537) and a Proposed Rule to Rescind (56 FR 87561) for 40 CFR part 61, subpart T, and an Advance Notice of Proposed Rulemaking for 40 CFR part 192, subpart D (56 FR 67569). EPA is proceeding with additional rulemaking activities to achieve sole regulatory responsibility for NRC and its Agreement States over subpart T mill tailings sites.

The Commission intends to revise appendix A of 10 CFR part 40 to conform to EPA's revised 40 CFR 192 standards and will proceed with this rulemaking concurrent with EPA's rulemaking. The NRC rulemaking will address the timing of closure activities and measurement of radon emissions to confirm compliance with the 20 pCi/m<sup>3</sup> radon emission standard (Criterion 6 of appendix A). In view of the need for concurrent action with EPA in the rulemaking, action on this is being undertaken separately from other issues discussed in this ANPRM.

The fourth issue concerns the licensing of a commercial disposal site for mill tailings, including wastes from in-situ extraction operations. The licensing requirements for mill tailings in 10 CFR part 40 are primarily intended



to address the situation where the tailings disposal operation is directly associated with a source material extraction operation. A commercial tailings disposal activity may be independent of any extraction process and thus comparable in certain respects to a low level radioactive waste disposal site. This facility would serve to aid the reduction of the number of small disposal sites and provide additional options for disposal of wastes from in-situ extraction operations consistent with Criterion 2 of appendix A. The authority to license a separate commercial disposal site under 10 CFR part 40 is not clearly stated in 10 CFR part 40. The Commission recently issued an order providing for the issuance of a specific license under 10 CFR part 40 for such an operation and intends to consider amendments to 10 CFR part 40 to specifically cover this activity in order to eliminate the need for issuing orders in the future. The Commission will consider applying appendix A to 10 CFR part 40 and whether additional requirements consistent with 10 CFR part 61 are appropriate.

The fifth issue concerns the disposal of waste from in-situ leaching operations. The NRC staff has prepared a position paper establishing a course of action for both the NRC staff and the licensee to follow in dealing with a proposal to dispose of in-situ wastes on site. This position paper was reproduced as appendix E to NUREG/CR-5881. The position paper amplifies the principles stated in Criterion 2 of appendix A to 10 CFR part 40, concerning reducing perpetual surveillance operations by avoiding, to the extent practicable, proliferation of small waste disposal sites. The position paper provides guidance to both the NRC staff and licensees for dealing with the disposal of in-situ waste on site. Basically, it provides for interim (up to 5 years) on-site storage of waste in those cases where it is demonstrated that there is no practicable off-site disposal option available and that on-site disposal is feasible. During the third year of the interim storage period, if no off-site disposal became available, the NRC staff would consider a request for permanent on-site disposal. By the end of the third year of interim storage, the licensee is to propose a suitable on-site disposal design for NRC review and approval. The Commission will consider whether these provisions should be incorporated into Criterion 2 of appendix A to 10 CFR part 40.

The sixth issue concerns the obligation of the NRC under section 144a(3) of the Atomic Energy Act, as

amended, to ensure that its general requirements for the management of uranium mill tailings are comparable to EPA requirements applicable to similar wastes under the Solid Waste Disposal Act (SWDA). In the Supplementary Information for the final rule (52 FR 43562; November 13, 1987) amending NRC regulations to incorporate EPA's ground-water protection requirements, the Commission noted that the rulemaking action was limited to incorporating requirements legally imposed by 40 CFR part 192 into NRC rules. The Commission also noted that a future rulemaking would probably be necessary to fully satisfy the comparability requirement of section 84a(3) of the Atomic Energy Act, as amended. The notice pointed to acknowledged technical difficulties with the provisions of 40 CFR part 264 as a principal reason for delaying conformance action. Finally, the Commission stated that the question of when to initiate rulemaking would be reassessed periodically. In 1989, the Commission evaluated the degree of comparability but has not reached agreement with EPA on what further action, if any, is appropriate. The Commission will again review the situation and explore the need for further rulemaking with EPA.

#### Additional Considerations

In addition to the substantive issues, the Commission will consider ways that 10 CFR part 40 could be made clearer or otherwise easier to implement, such as structure or format changes.

#### Options for Rulemaking

The staff is pursuing consideration of an overall revision to 10 CFR part 40 to deal with all of the described issues and areas in a comprehensive fashion. As noted in the Background Section, the NRC has not undertaken a comprehensive revision of 10 CFR part 40 since 1961. However, the NRC staff is also considering alternatives to a comprehensive rulemaking based upon the timing and efficiency of dealing with certain issues. For example, depending on the nature and extent of information obtained in response to this notice, a simple rulemaking may be initiated designed to obtain better information on products and materials being distributed for use under an exemption and for use under the general license in § 40.22. This rule could require:

- (1) Annual reports from specific licensees as to the types and number of products and quantities of source material distributed for exempt use,
- (2) Quarterly reports from specific licensees about commercial transfers to

§ 40.22 general licensees, including what material is transferred, the identity of the general licensee, and a point of contact for the general licensee, and

(3) That distribution of source material to persons exempt from licensing and to persons using the general license in § 40.22 be made under a specific license.

Comparable action on the part of the Agreement States for item (2) would likely be necessary.

The information obtained as a result of this first rulemaking would provide a basis for determining what additional changes are appropriate. Further dealing with the issues of specific licensees other than mills, general licensees, and exemptions would depend on developing a better data base and would not be undertaken until this was achieved.

Issues related to mills could be dealt with sooner if handled separately from these other issues. However, the NRC staff is uncertain at this time as to whether the changes to 10 CFR part 40 related to mills warrant a separate rulemaking. As the scope of rulemaking in the area of uranium mills develops, the NRC staff will determine if these issues should be dealt with separately.

Any further separation of issues will be determined after a clearer definition of the scope of rulemaking in each area is developed and will depend on the timing of resolution of the various issues involved.

#### Request for Information and Comment

The Commission specifically seeks comment in a number of areas. These relate primarily to obtaining more detailed information on how the exemptions in 10 CFR part 40 and the general license in § 40.22 are used. The information would assist the Commission in preparing proposed amendments that would provide for the protection of health and safety with the least impact on the conduct of activities related to these provisions of 10 CFR part 40.

(1) The Commission requests information and comments from licensees who distribute source material to exempt persons. In the case of manufacturers or importers of products, the Commission is interested in information on the type and amount of source material in each product, its chemical and physical form, the number of products currently distributed annually and in the recent past, as well as a projection of distribution in the next few years. The Commission is also interested in information on the type, quantity, and form of the source



material distributed by distributors of materials exempted under §§ 40.13 (a), (b), and (c)(1)(vi).

(2) The Commission requests information and comments from licensees who distribute source material for use under the general license in § 40.22 and also from users of that general license. From distributors, the Commission is interested in information on the type, the quantity, and the chemical and physical forms of source material distributed annually, including the number of shipments in the past 3 years and the approximate quantity per shipment. From users of the general license, the Commission is interested in information on the types of activities conducted under this general license and on the quantities of material needed for those activities.

(3) With respect to the general license in § 40.25, the Commission seeks information on how this provision of the regulations might be made more useful.

(4) The structure and format of the revisions to 10 CFR part 40 will be determined at a later date based in part on the ultimate scope of rulemaking. However, commenters may wish to comment on the pros and cons of options such as:

a. Creation of a separate part for general licensing of source material comparable to 10 CFR part 31 or for manufacturers or those transferring for the first time products containing source material for sale or distribution comparable to 10 CFR part 32.

b. Creation of subparts within 10 CFR part 40 covering these same subjects and/or containing specific requirements for particular classes of specific licensees.

Commenters are, of course, welcome to provide comments on any issue raised in this notice, discussions contained in NUREG/CR-5881, or any other issue related to updating the regulations contained in 10 CFR part 40. Comments which include the rationale for the suggestions or views will be especially useful.

#### List of Subjects in 10 CFR Part 40

Criminal penalty, Government contracts, Hazardous materials—transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, and Uranium.

Authority: Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Dated at Rockville, Maryland, this 22nd day of October 1992.

For the Nuclear Regulatory Commission,  
Samuel J. Chilk,  
Secretary of the Commission.  
[FR Doc. 92-28094 Filed 10-27-92; 8:45 am]  
BILLING CODE 7590-01-M

## SUMMARY OF COMMENTS AND STAFF RESPONSES

Exemptions - Part 40 contains approximately 20 specific exemptions from licensing which cover such items as gas mantles, electric lamps, glassware, optical lenses, and photographic film.

### Licensing requirements for distributors

*Comments.* There was general support for improving the control of material/products distributed for exempt use. Several commenters supported specific licensing and reporting requirements for distributors.

*Staff response.* The staff continues to believe that commercial distributors of materials transferred from licensed status for exempt use should be specifically licensed to do so in order that the staff can assure that products/materials distributed meet any applicable constraints in the regulations. Also, annual reporting of materials/products that are distributed should be required. This will provide more information concerning each practice as well as providing the data necessary to evaluate the net impact of all exemptions on the public.

*Comments.* A number of the commenters were also in favor of labelling of products to be sure that the user is informed that the product contains radioactive material. A few mentioned QA as important.

*Staff response.* Such other controls on commercial distribution as: (1) information required from the distributor on safety of design of products, (2) QA programs submitted for approval, and (3) labelling of products (or point-of-sale packages) can best be determined on an exemption-by-exemption basis after more information is obtained concerning the products/materials distributed.

### Specific exemptions

*Comments.* With regard to the exemptions themselves, there was support to retain them but also to review them to assure that public health and safety were adequately protected. The particular exemptions that received attention were: source material under 0.05% weight concentration, thoriated welding rods, unrefined and unprocessed ore, and gas mantles. Two commenters expressed strong concerns with regard to the hazards to welders from thoriated welding rods; one of the two requested an immediate ban.

*Staff response.* Decisions on modification or deletion of existing exemptions should only be made after further progress is made in the reevaluation of these exemptions. Priority is being given to the completion of analyses for those exemptions for which concerns were raised. Nothing in the comments or the preliminary information available from the assessment of exemptions demonstrates the need for an immediate ban (deletion of the exemption allowing use only under license) on thoriated welding rods.

## General Licenses

§ 40.22 General license - This general license authorizes commercial and industrial firms, research, educational, and medical institutions and Federal, State, and local government agencies to use and transfer not more than 15 pounds of source material at any one time (no more than 150 pounds total to be received per calendar year) for research, development, educational, commercial, or operational purposes.

*Comments.* There was general support for improving the control of materials distributed for use under the general license in § 40.22, as well as for the need to retain the general license. There were a variety of views on approaches for improving control of materials distributed for use under § 40.22. One commenter suggested specific revised quantity limits that would accommodate the predominant uses of this general license. Two commenters were in favor of a tiered approach leaving the limits unchanged for those using this general license who are also specific licensees (and not exempt from Parts 19, 20, and 21).

*Staff response.* The staff continues to believe that commercial distributors of material for use under the § 40.22 general license should be specifically licensed to do so. The staff also believes that quarterly reporting by the distributors, which includes the identity of the general licensees, should be required. This approach to monitoring general license use is considered adequate in this case and less burdensome than the alternative of registration by the general licensee. Although a tiered approach or lower quantity limits (or further limitations on uses) are reasonable alternatives to consider, there is not adequate information on the use of this general license to determine the optimum quantity limits or estimate the impacts of such an action. Identifying the general licensees would allow for the monitoring of the use of material under the general license and distribution of safety information so as to assure that health and safety are adequately protected in the interim, and provide a firm basis for a more effective change to § 40.22 at a later date (in the phase II rulemaking).

§ 40.25 General license - This general license governs the use of certain industrial products or devices containing depleted uranium.

*Comments.* One commenter suggested an improvement to the general license in § 40.25 would be to better accommodate the use of depleted uranium shielding on accelerators used for medical purposes.

*Staff response.* In the case of the § 40.25 general license, both (1) reporting of the identity of the general licensee by the distributor and (2) registration by the general licensee is currently required. Consistent with the approach to § 40.22 planned for the phase II rulemaking, the staff will also consider dropping the requirement for registration by the general licensee as an unnecessary administrative burden. The staff may also consider ways that shielding could more easily be accommodated under this general license so that this provision would be more useful to the regulatory program.



### Specific Licenses (other than mills)

*Comments.* Most commenters agreed that more specific requirements geared toward the type of specific licensee (beyond those discussed above for distributors of exempt or generally licensed materials) were not necessary. One supported the addition concerning the Sealed Source and Device Registry.

*Staff response.* The staff continues to believe that the addition of a provision for the Sealed Source and Device Registry to Part 40 is appropriate to formalize existing administrative practice to include the small number of devices and sealed sources that use source material and that no other rule changes are needed at the present time for other specific licensees beyond those previously planned.

*Comments.* No comments were received concerning NUREG-1324, "Proposed Method for Regulating Major Materials Licensees," which was referenced in the ANPRM.

*Staff response.* SECY-92-337, which presented staff plans resulting from NUREG-1324, suggested future rule changes which would apply to a few Part 40 licensees. It appears more efficient for staff efforts to address only those issues identified through this reevaluation and not incorporate any planned regulatory changes from that program for those Part 40 major material licensees. Instead, staff intends to separately propose additional changes to Part 40 for licensees which operate large materials processing facilities commensurate with the changes being developed for licensees operating special nuclear material processing facilities under a Part 70 license. This may be reconsidered in the future.

### Mills and Mill Tailings

*Comments.* A number of commenters provided extensive discussion of the six milling issues mentioned in the ANPRM. Much of this discussion, however, focused on the content of staff guidance referenced in the ANPRM involving three of the issues: alternate feed materials, disposal of non-11e.(2) byproduct material, and disposal of waste from in-situ leaching operations. The comments did not support further actions for rulemaking other than had been suggested in the ANPRM. There was support for: (1) incorporating a definition of ore in the regulations (although not all commenters agreed with the Commission's working definition mentioned in the ANPRM at 57 FR 48752); (2) including appropriate requirements for licensing an independent commercial tailings disposal site; and (3) conforming Appendix A of Part 40 to EPA regulations in 40 CFR Part 192, Subpart D to ultimately achieve sole responsibility of NRC and the Agreement states over tailings impoundments through EPA's subsequent rescission of 40 CFR Part 61, Subpart T.

*Staff response.* Comments concerning the specifics of the three guidance documents mentioned above will be considered by the staff in subsequent actions related to these documents. Guidance concerning two of these issues, alternate feed materials and disposal of non-11e.(2) byproduct material, was published May 13, 1992 for public comment. The staff has analyzed those comments and prepared a draft Commission paper containing revisions to the staff guidance. That action has been delayed, however, because of a question

regarding the applicability of the Resource Conservation and Recovery Act to source material in terms of the exclusion of source, special nuclear, and byproduct material from the definition of solid waste. The staff has been analyzing this issue and preparing a position for Commission consideration in a separate action.

Consistent with earlier Commission direction (in response to SECY-91-347), the staff plans to add a definition of ore to Part 40 to provide flexibility in the regulations for the use of alternate feed materials in the routine processing activities at mills rather than case-by-case approval. This effort will be coordinated with the ongoing related work on the guidance documents. The staff also believes that regulations applicable to an independent commercial tailings disposal site should be clarified in Part 40. Only one application (from Envirocare) has been received to date; however, based on a number of inquiries to the licensing staff, more are expected. Clarification in the rule will simplify the licensing process and eliminate the need for Commission approval of standards for each licensing action. The staff also plans to develop a standard review plan for this type of licensing action.

As indicated in the ANPRM, the staff is pursuing amendments to Appendix A of Part 40 for uranium mill tailings impoundments as a separate rulemaking action concurrent with EPA rulemakings to revise 40 CFR Part 192, Subpart D and to rescind the National Emission Standards for Hazardous Air Pollutants for radioactive emissions from uranium mill tailings disposal sites in Subpart T of 40 CFR Part 61. NRC's rulemaking is intended to conform Appendix A to EPA's recent revisions to 40 CFR Part 192, Subpart D. The proposed rule was transmitted to the Commission on September 2, 1993 (SECY-93-249) and published in the Federal Register November 3, 1993. Because of the need for concurrent action with EPA's actions in this area, this rulemaking needed to remain separate and given the highest priority of the efforts addressed by this plan.

Other Issues: Three issues were mentioned that go beyond the scope of simply amending Part 40:

*Comment.* One commenter suggested working for uniform labelling requirements for products on a global basis.

*Staff response.* Efforts would be needed to encourage the development of international standards. In the rulemakings included in this plan, the need for labelling requirements will be addressed on a case-by-case basis. However, the staff would attempt to be flexible enough so as not to unnecessarily cause conflicts with labelling requirements of other countries.

*Comment.* A few licensees expressed concern that they not bear the cost of NRC work on Part 40 not affecting them through increases in their fees.

*Staff response.* A brief description of the approach to equitably setting fees will be included in the more detailed comment response that will accompany rulemaking.

*Comment.* Two commenters suggested that NRC establish more flexible groundwater standards for Title II sites consistent with EPA proposed standards for Title I mill tailings sites.

*Staff response.* NRC's rules for its Title II sites must conform to EPA's generally applicable standards for Title II sites. Thus, the Commission may not develop more flexible standards for Title II sites comparable to those referenced for Title I sites, unless the applicable EPA standards are first revised in a similar manner.

#### Options for Rulemaking

*Comment.* Only one commenter addressed the options for rulemaking indicating that issues pertaining to mining and milling should be addressed in rulemaking separate from those regarding exemptions and general licenses since the regulated community for the two areas are different.

*Staff Response.* As reflected in this plan, the staff agrees.



## OUTLINE OF PLAN FOR UPDATING PART 40

- Non-Mill Issues - Phase I (To be referred to as "Distribution of Source and Byproduct Material: Licensing and Reporting Requirements."): Proposed to EDO for signature, 1/95; Final to EDO, 12/95
  - Exemptions
    - Require commercial distribution of source materials/products to exempt persons to be made under a specific license
    - Require annual reporting of quantities of source materials/products distributed for exempt use
    - Revise 5 year reporting in Part 32 to annual reporting (for distribution of 11e(1) byproduct material under Part 30 exemptions)
  - General licenses
    - Require commercial distribution of source material to be used under § 40.22 to be made under a specific license
    - Require quarterly reporting of quantities of materials distributed for use under § 40.22 including identity of general licensee and point of contact
  - Other specific licensees
    - Add provision for the Sealed Source and Device Registry for certain sources and devices containing source material
- Non-Mill Issues - Phase II (details to be determined based on information obtained as a result of Phase I): Proposed to Commission, 12/97; Final to Commission, 12/98
  - Exemptions
    - Determine which exempt products should be manufactured under an approved QA plan
    - Determine which exempt products should be labelled as containing radioactive material
    - Possibly include revisions to specific exemptions (This would depend on the timing and outcome of the systematic reevaluation of exemptions. If the reassessment shows a significant health and safety problem with an exemption, it would be addressed sooner.)
  - General licenses
    - Modify quantity limits, uses allowed, or structure of § 40.22, as appropriate
    - Consider removing requirement for registration of § 40.25 general licensees and other ways to improve the usefulness of this general license
  - Other specific licensees
    - No changes unless decision to incorporate effort from NUREG-1324
- Mill issues - Conformance with 40 CFR Part 192, Subpart D: Published 5/94
- Mill issues - All others: Schedule to be determined
  - Add definition of "ore" - related to alternative feed materials
  - Add specifics applying to independent commercial tailings disposal
  - Clarify *Criterion 1* of Appendix A to indicate that siting considerations are different in the case of existing tailings impoundments and potential new impoundments; consider whether a similar clarification may be appropriate to other criteria