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213

WM Project

PK-40

Docket No.

49FR46425

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(Return to WM, 623-SS)

MEMORANDUM FOR:

Victor Stello, Jr.

Acting Executive Director for Operations

FROM:

John G. Davis, Director

Office of Nuclear Material Safety  
and Safeguards

SUBJECT:

PROPOSED RULEMAKING "URANIUM MILL TAILING REGULATIONS:  
GROUND-WATER PROTECTION AND OTHER ISSUES"

Enclosed for your concurrence and signature is a Commission paper to obtain Commission approval to publish proposed amendments to 10 CFR Part 40. This action is necessary to complete conformance of the Commission's rules to standards issued by the Environmental Protection Agency (EPA). Conformance was mandated by Congress. We received EDO approval to continue this rulemaking by memorandum dated May 29, 1985.

The Commission is meeting the mandate to conform in two steps. The first step, which conformed to and incorporated the stability and radon release provisions of the EPA standards, was completed with publication of final rule changes October 16, 1985 (50 FR 41852). The second step, which is covered by this paper, is to incorporate the ground-water protection requirements of the EPA standards.

With regard to ground-water protection requirements, section 84a(3) of the AEA directs NRC to assure that mill tailings are managed in a manner that is comparable with EPA's requirements for management of similar hazardous material under the Solid Waste Disposal Act (SWDA). EPA incorporated some of its SWDA permitting regulations by direct reference into its mill tailings standards, to which we must conform, but left to NRC discretion which additional requirements in its SWDA regulations might be appropriate for mill tailings. The proposed rule (enclosed) only includes the non-discretionary changes necessary to finish conforming to EPA's standards.

In a memorandum from me to William J. Dircks dated June 28, 1985, we described the scope of rulemaking we planned to pursue for the second step, i.e., modifying our rules in 10 CFR Part 40 to add the ground-water provisions which are directly referenced in the EPA standards in 40 CFR Part 192. As you are probably aware, the state of the industry continues to decline and we continue to believe that the enclosed approach represents the best use of agency resources. In addition, the Commission asked that the ground-water rulemaking be forwarded as soon as possible. (Reference the September 30, 1985 memorandum to Dircks from Chilk approving publication of the radon and stability conforming action

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as a final rule.) Any rulemaking to incorporate the other portions of the SWDA regulations left to NRC's discretion would only delay conformance.

Staff believes that the combination of conformed regulations, policy and guidance, and license conditions can adequately meet the mandate to be comparable with EPA's SWDA requirements for the foreseeable future.

This proposed rulemaking action has been coordinated with the Region IV Uranium Recovery Field Office, the Division of Fuel Cycle and Material Safety, the Waste Management Branch in RES, the Division of Rules and Records, and the Office of Public Affairs. The Executive Legal Director has no legal objection. The Office of State Programs concurs. No significant disagreements or issues have been identified.

John G. Davis, Director  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:  
Commission Paper

URFO *	PA *	DRR *
86/01/	86/01/	86/01/

\*See previous concurrence

OFC	: WMLU: jmh	: OELD *	: OSP*	: FC *	: WM*	: NMSS*	: NMSS*
NAME	: LHigginbotham	:	:	:	: REBrowning	: DMAusshardt	: JGDavis
DATE	: 86/01/30	: 86/01/	: 86/01/	: 86/01/	: 86/01/ 30	: 86/01/	: 86/01/ 30

The Office of State Programs concurs. No significant disagreements or issues have been identified.

John G. Davis, Director  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:  
Commission Paper

per input on  
PRM fm  
J Stewart  
RES  
KSD  
1/17/86

per comments  
and telecon 1/9/86  
H. Rettigill  
URFO  
KSD  
86/01/17

per 12/18/85  
revised  
PA announcement  
fm S Gagner  
KSD  
86/01/17

per input  
in Philips  
memo 12/6/85  
DRR  
KSD  
86/01/17

OFC : WMLU	KSD	: OELD	SP	Per review	No comments	WM	RFB	: NMSS	: NMSS
NAME : L Higginbotham	KSD	: 12/2/85 version	per	R. Wilde	RE Browning	: D Mausehardt	: JG Davis		
DATE : 86/01/18	17	: 86/01/17	: 86/01/17	: 86/01/21	: 86/01/	: 86/01/			