

DOCKET NUMBER

PROPOSED RULE

PR-220  
(51 FR 43367) (76)



**KERR-McGEE CORPORATION**

KERR-McGEE CENTER • OKLAHOMA CITY, OKLAHOMA 73125

DOCKETED  
USNRC

'87 MAR 17 P6:35

March 10, 1987

ENVIRONMENT AND HEALTH MANAGEMENT DIVISION

EDWIN T. STILL, DVM

VICE PRESIDENT AND DIRECTOR

OFFICE OF  
DOCKETING & SERVICE  
BRANCH

Mr. Samuel J. Chilk  
Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Attn: Docketing and Service Branch

Re: Advance Notice of Proposed Rulemaking on Radioactive Waste Below  
Regulatory Concern; 51 Federal Register 43367 (2 December 1986)

Dear Mr. Chilk:

Kerr-McGee Corporation appreciates the opportunity to provide the enclosed comments on the referenced proposed rulemaking. Through wholly-owned subsidiaries, Kerr-McGee conducts activities that are licensed by the Commission and would be affected by the rule.

As noted in our comments, we endorse the development of generic regulations concerning the disposal of wastes that are below regulatory concern.

Sincerely,

*Edwin T. Still*

ETS/lh

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Acknowledged by card

U.S. NUCLEAR REGULATORY COMMISSION

Advance Notice of Proposed Rulemaking

10 CFR Parts 2 and 20

Radioactive Waste Below Regulatory  
Concern; Generic Rulemaking

Comments by

KERR-McGEE CORPORATION

Oklahoma City, Oklahoma

March 10, 1987

Comments

by

KERR-McGEE CORPORATION

Kerr-McGee Corporation supports the proposal to develop generic regulations for the disposal of wastes containing radioactivity determined to be below regulatory concern (BRC). We believe there are many instances in which wastes are required to be disposed of as contaminated in accordance with NRC regulations even though the level of radioactivity is less than that found in widely available and commonly used substances and, even under conservative exposure scenarios, pose no discernible risk to public health and safety.

The Congress, in Section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985, required the Commission to "establish standards and procedures" for the expeditious handling of petitions to exempt from NRC regulation those wastes determined to be below regulatory concern. The development of a reasonable generic BRC regulation is responsive to the Congressional mandate and certainly offers many benefits over having to petition for exemption on an individual waste stream basis. We recognize the six-month period specified in the Act precluded rulemaking initially and are pleased to see the Commission is now going forth with the benefit of public comment.

In the following, we provide specific comments on several items for which comment has been requested. For convenience, each issue is first restated by paraphrasing the Register language.



Issue: The general question of whether and how the Commission should proceed on the matter of exempting slightly contaminated radioactive materials from its requirements for disposal. (Col. 2, page 43368)

Comment: The Commission should proceed to exempt slightly contaminated materials from its requirements for disposal. We agree that the generic approach taken is proper; however, in view of the time that may be required to consider all the issues and to promulgate a final rule, we encourage an interim regulation that would provide a basis for individual licensees to determine whether particular wastes were BRC and can be disposed of as "non-radioactive" materials. The interim regulation necessarily would need to include criteria that are quantifiable, such as activity or concentrations, or a reasonable qualitative methodology, such as surveys and calculations, upon which the licensee makes the determination.

Issue: Assuming exempting wastes from regulation on a waste-stream-by-waste-stream basis is the most practical way to proceed, what type of rulemaking would facilitate exemption of waste streams? (Question 1, Col. 3, page 43368)

Comment: As noted in the comment immediately above, a two-step approach is recommended in which an interim regulation providing for specific "waste-stream-by-waste-stream" BRC determination is first promulgated followed by promulgation of the "generic" rule. The "generic" rule of course must provide criteria where upon disposal will not pose an undue risk to the public health and safety and must also be applicable to agreement states.

Issue: Should the decision criteria in the Commission's policy statement be codified as rules? (Question 1a, Col. 3, page 43368)

Comment: No. At best, the criteria listed should be for guidance; further, no basis has been stated for codifying the criteria as a rule. Typically, the decision criteria go far beyond what is reasonably needed and are in some cases inappropriate. For example, criterion 4 addresses "potential radiological consequences of accidents involving the wastes or equipment malfunction involving the wastes..." The logic for this criterion is elusive. If the waste is below regulatory concern, presumably any consequences of an accident would be of no concern. Overall, the criteria require very detailed information and the relationship with radiological safety enhancement is not clear.

Issue: Should the decision criteria be quantified and then codified to facilitate processing petitions? (Question 1b, Col. 3, page 43368)

Comment: Where possible, quantification should be done. The quantification should be ultimately tied to a reasonable maximum expected individual dose which can be used to establish a BRC concentration or activity level. Many of the criteria are beyond quantification; e.g., No. 10, the disposed form of the waste has negligible potential for recycle. The Commission could consider addressing the criteria "generically" and in turn use the "generic" criteria for developing quantifiable requirements.

Issue: Should additional criteria be added or deleted before they are quantified and codified? (Question 1c, Col. 3, page 43368)

Comment: Additional criteria needs are not apparent. As indicated in our above comments, some criteria should be deleted, as they go beyond what is germane, reasonable or appropriate.

Issue: Should the NRC try to establish concentrations or quantities of radionuclides that are below regulatory concern regardless of the form or disposal circumstance? (Question 2a, Col. 3, page 43368)

Comment: To be most useful, concentrations are necessary. Of course, the concentrations will derive from dose considerations. The form or disposal circumstances should not be restrictive. In fact, NRC's existing regulations already provide for exempting various quantities of radionuclides from regulatory requirements and for classing as "unimportant" various quantities (e.g., 10 CFR Part 40 re thorium and uranium). Further, the regulations provide for releasing to air and water various quantities of radionuclides (e.g., 10 CFR Part 20). To require disposal of materials as radioactive waste that contain similar quantities of radionuclides but that are of a different form or media makes little sense. For example, liquids other than water, such as oils, solvents or acids, should be releasable as non-contaminated waste if the concentration meets that set for water.



Issue: Should a dose or risk value be developed as the basis for generic regulatory cut-off levels for an individual licensee's waste? How can compliance be demonstrated? What records are needed? (Question 2b, Col. 3, page 43368)

Comment: Dose consideration should be the underlying basis. However, the pathway scenarios considered should not be so conservative as to be unreal and thus preclude any possibility of determining a material is BRC. The key for compliance demonstration rests in the definition of what is required -- that is, stating the regulation clearly. Once a material is determined to be BRC, only the records leading to that conclusion should be required to be maintained.

Issue: Should NRC defer to EPA standards development in this area? (Question 5, Col. 1, page 43369)

Comment: No. NRC should develop its own requirements for its licensees.

Issue: Should NRC defer to national or international bodies? (Question 6, Col. 1, page 43369)

Comment: No. NRC should of course be aware of what other bodies are considering, but as in the comment above, NRC should develop its own standards for its own licensees.