

NRC Panel Discussion on Part 61 Proposed Rule

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- As the only commercial enrichment facility in US, UUSA has a substantial interest and stake in Part 61 rulemaking
 - Key driver of rulemaking - disposal of large quantities of depleted uranium (“DU”) – first arose in UUSA initial licensing hearing
 - Increased requirements resulting from rulemaking will have a direct adverse impact on low level radioactive waste ("LLRW") generators, such as UUSA (e.g., disposal costs and operational changes)
 - Financial impacts can have a concomitant negative effect on long-term US domestic energy security
- NRC should perform an adequate regulatory analysis of the *enhanced* rulemaking impacts on the fuel cycle industry

Dose "Minimization Analysis"

Discussion

- Sections 61.41 & 61.42 introduce a new continuing dose "minimization analysis" for the public and inadvertent intruder by requiring doses to be below 500 mRem or "at a level that is supported as reasonably achievable based on technological and economic considerations"
- The new requirements raise concern for several reasons:
 - Lack of regulatory and technical support for the new standard
 - Legal precedent on similar standards indicates they can create considerable uncertainty for the regulated community
 - Although the standard is based, in part, on the as low as reasonably achievable ("ALARA") standard, the new standard does not include the type of objectivity the ALARA standard provides

- NRC's delay in considering the waste classification issue along with the other Part 61 requirements constitutes "piece-meal" regulation
 - Courts have discouraged agencies from a "one step at a time" regulatory process
 - NRC has not articulated a clear basis for its bifurcated approach
 - Both rulemakings have the same key driver – *i.e.*, evaluating the disposal of large quantities of DU
- NRC should reconsider its approach and instead move forward with an integrated rulemaking

- NRC has taken the position that "backfit" does not apply to Part 61 and, thus, did not perform a backfit analysis for the rulemaking
- For several reasons, not performing a backfit analysis should be reconsidered:
 - NRC's position narrowly construes the backfit rule under Part 70 - it does not consider that the new requirements can have significant impacts on LLRW generators who rely on Part 61 disposal facilities
 - Inconsistent with prior NRC rulemakings
 - NRC's published regulatory analysis is "qualitative"
 - Failure to consider impacts on affected segments of the industry is not consistent with agency policy to reduce cumulative effects of regulation ("CER")

- As discussed, there are still substantive matters that need consideration and/or reconsideration prior to finalization of the Part 61 rulemaking
- Notwithstanding, the Commission and the NRC Staff are to be commended for allowing industry engagement