

February 27, 2012

Steve Tarlton, Program Manager
Radiation Control Program
Hazardous Materials & Waste Management Division
Colorado Department of Public Health and the Environment
HMWMD-RAD-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Dear Mr. Tarlton:

I am writing to you requesting your assistance in addressing an inquiry into the Colorado Department of Public Health and the Environment (CDPHE) implementation of sections of the Atomic Energy Act of 1954, as amended, that are applicable to regulation of uranium mills by Agreement States: 42 U.S.C. §2021(o).

The Nuclear Regulatory Commission (NRC) staff has communicated with you and your staff on several occasions regarding these concerns since March of 2011. The discussions have focused on the interpretation and implementation of The Rules and Regulations Pertaining to Radiation Control for the State of Colorado (6 CCR 1007-1, Part 18.6). Of particular concern is 6 CCR 1007-1, Part 18.6.1, and whether this section provides for a public notice announcing an opportunity for the public to submit comments and participate in a public hearing on the issuance of a new license after publication of the draft license and environmental impacts analysis, as required pursuant to Section 274(o) of the Atomic Energy Act of 1954, as amended (the Act) and the State of Colorado amended Agreement with the NRC. See also, 42 U.S.C. §2021(o) and Section 274(b) of the Act.

During the discussions, CDPHE proposed two corrective actions as a resolution to the issues described by the NRC staff.

1. To address the generic issue (classification of regulatory requirements), it was discussed that CDPHE will provide the NRC with proposed modifications to 6 CCR 1007-1, Part 18.6.1 to provide specifically for issuance of a public notice announcing an opportunity for the public to submit comments and request a public hearing on uranium milling licensing actions and the compliance with standards for the protection of the public health, safety, and the environment from hazards associated with the licensed material.
2. To address the current site-specific issue (no notice of hearing opportunity for the public), it was discussed that CDPHE would work with Energy Fuels to provide for an opportunity for a public hearing on the issuance of the new license for the Piñon Ridge Uranium Mill.

To assist us in responding to the concerns presented to us, please explain how CDPHE will complete the actions described above to resolve the issues. Please respond to this letter within 30 days of the date of this letter.

The NRC staff will continue discussions on this issue in the upcoming Integrated Materials Performance Evaluation Program periodic review of the Colorado Agreement State Program, scheduled for April 2012.

Should you have any additional questions, or need further assistance in this matter, please contact Mr. Duncan White on (301) 415-2598 or email duncan.white@nrc.gov.

Sincerely,

/RA/

Pamela J. Henderson, Acting Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

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Pamela J. Henderson, Acting Deputy Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

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