

PUBLIC SUBMISSION

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Docket: NRC-2008-0421

Groundwater Protection at In Situ Leach Uranium Recovery Facilities

Comment On: NRC-2008-0421-0010

Ground Water Protection at Uranium In Situ Recovery Facilities; Extension of Comment Period

Document: NRC-2008-0421-DRAFT-0009

Comment on FR Doc # 2019-03556

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Organization: Wyoming Department of Environmental Quality/ Land Quality Division

Government Agency Type: State

General Comment

See attached file(s)

Attachments

Wyoming DEQ-LQD



Mark Gordon, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Todd Parfitt, Director

March 01, 2019

Secretary

U.S. Nuclear Regulatory Commission

Washington, DC 2055-001

ATTN: Rulemaking and Adjudication Staff **Docket ID NRC-2008-0421**

The Wyoming Department of Environmental Quality (WDEQ) appreciates the opportunity to support the U.S. Nuclear Regulatory Commission (NRC) in its efforts to resume rulemaking to amend the regulations governing the domestic licensing of source material codifying general requirements to address ground water protection at uranium in-situ recovery (ISR) facilities **Docket ID NRC-2008-0421**. The WDEQ agrees with former NRC Commissioner Merrifield when he stated¹, "[W]hile the [NRC] staff has done its best to regulate [ISR] licensees through generally applicable requirements, Part 40, and impositions of license conditions, our failure to promulgate specific regulations for [ISR] has resulted in an inconsistent and ineffective regulatory program....., we should finally remedy this situation through notice and comment rulemaking. In developing a proposed rule, the staff should formulate a regulatory framework that is tailored specifically to this unique group of licensees." Revising 10 CFR Part 40 to standardize existing licensing and oversight practices will lead to a more consistent, efficient, and transparent regulatory program.

The promulgation of an NRC rulemaking specific to ISR facilities would require Agreement States to conform to the new or amended NRC regulations, to the extent appropriate, for regulatory compatibility. Recently the NRC released SA-801A "Agreement State participation in Rulemaking Working Groups"² which states "Rulemaking working groups will include Agreement State membership if the proposed rulemaking involves program elements that must be adapted by an Agreement State for purposes of compatibility, as well as those that need to be adopted due to consideration of particular health and safety significance." Additionally, the guidance states that rulemaking working groups provide a means for the NRC and the Agreement States to work cooperatively throughout the various stages of rulemaking process. This is consistent with the principals and goals of cooperative federalism. These working groups enhance the partnership between the NRC and the Agreement States, facilitate the use of expertise that exists in the NRC and the Agreement States, and supports the National Materials Program. The WDEQ believes it is important for the NRC to adhere to this policy and work with the Organization of Agreement States (OAS) of which Wyoming is a member, in the development of these rules. Wyoming

¹ COMJSM-06-001, January 17, 2016. ML060830041

² SA-801A "Agreement State Participation in Rulemaking Working Groups. January 16, 2019 ML18263A239

has multiple in-situ operations in the state and Wyoming's Agreement State program will be significantly affected by any regulatory change. Therefore, it is important for WDEQ to be involved early in the process and have input in development of any proposed rules and regulations.

In the rulemaking request, the NRC commenters were asked to identify "any issues that should be addressed to protect groundwater at ISR facilities, in either this rulemaking or through the development of guidance documents". The scope of the commenters input is to include any issues that should be addressed to enhance public or occupational safety at ISR facilities. The WDEQ recommends taking the same approach used to justify this rulemaking to the development/revision of its existing guidance. The NRC, in coordination with Agreement States, including Wyoming, should develop guidance specific to ISR uranium operations. More specifically the NRC should consider developing or revising guidance for Alternate Concentration Limits (ACL), radiological effluent and environmental monitoring, and radon characterization that are specific to ISR operations. This would include revising Regulatory Guide 4.14 such that it is most applicable to ISR.

The WDEQ looks forward to working with the NRC through (OAS) as is intended by cooperative federalism principals on this future rulemaking. The WDEQ supports this rulemaking, as it will bring more consistency and efficiency to our regulatory program. The WDEQ is grateful for the opportunity to comment and is willing to assist in this rulemaking as directed in NRC policy SA-801A Agreement State Participation in Rulemaking Working Groups.

Sincerely,



Kyle Wendtland

Land Quality Administrator