



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

OFFICE OF RADIATION PROTECTION

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February 28, 2019

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTN: Rulemakings and Adjudications Staff

Re: Docket ID NRC-2008-0421

On behalf of the state of Washington, below, for your consideration, are comments on 10 CFR Part 40, Groundwater Protection at Uranium In Situ Recovery Facilities; Request for Comment, as published in the Federal Register Vol. 84, No. 21 dated Thursday, January 31, 2019. Comment numbering corresponds to the numbering of the questions in the Federal Register.

1. The state recommends that NRC proceed with In Situ Recovery (ISR) rulemaking, to add ISR-specific requirements to NRC's current uranium milling regulations in appendix A to CFR Part 40. Operations and environmental issues are significantly different for conventional milling compared to ISR. As a result, the state sees benefit for regulators and industry since NRC rulemaking and subsequent Agreement State regulation changes would establish more uniform requirements for both groundwater protection and radiation health and safety at ISR facilities nationwide.
2. The state does not currently regulate any ISR facilities and does not see development of ISR in Washington in the future. However, the state feels strongly that the NRC must involve Agreement States that currently regulate operational ISR facilities in development of NRC's regulations and guidance to protect groundwater at ISR facilities. See comment number 4 below.
3. The state does not currently regulate any ISR facilities and does not see development of ISR in Washington in the future. However, the state feels strongly that the NRC must involve Agreement States that currently regulate operational ISR facilities in development of NRC's regulations and guidance to address public and occupational safety at ISR facilities. See comment number 4 below.

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4. The state feels that not including Agreement State participation in rulemaking and associated guidance development is an issue that could negatively impact the establishment of uniform requirements for ISR facilities nationwide. The state recommends that NRC include Agreement State representation, in particular from the Agreement States currently regulating ISR facilities, for rulemaking and associated guidance development. The state recommends that NRC use SA-801A, Agreement State Participation in Rulemaking Working Groups, to guide Agreement State involvement. SA-801A states that 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 the rulemaking process. 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 support the National Materials Program.

If you have any questions regarding these comments, please contact Bryony Stasney at (509) 329-2156 or at bryony.stasney@doh.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mikel J. Elsen', with a long horizontal flourish extending to the right.

Mikel J. Elsen
Director