

August 2, 1979

CORRECTION NOTICE

TO ALL HOLDERS
OF

SECY-79-413 - LICENSE REQUIREMENTS FOR URANIUM MILLS*

THE EXECUTIVE DIRECTOR FOR OPERATIONS HAS REQUESTED THAT THE
CORRECTED PAGES ENCLOSED WITH THE ATTACHED MEMORANDUM FROM THE
DIRECTOR OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS BE INSERTED
IN APPENDIX A OF THE SUBJECT STAFF PAPER IN LIEU OF THE ORIGINAL
PAGES.

ATTACHMENT:
AS STATED

THE SECRETARIAT

* SECY NOTE: THIS PAPER IS CURRENTLY SCHEDULED FOR A COMMISSION
BRIEFING AT 3:00 P.M., MONDAY, AUGUST 6, 1979

910 323
79090600 504



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

AUG 2 1979

MEMORANDUM FOR: Samuel J. Chilk
Secretary of the Commission

FROM: William J. Dircks, Director
Office of Nuclear Material Safety and Safeguards

THRU: Lee V. Gossick, Executive Director for Operations *LG*

SUBJECT: LICENSING REQUIREMENTS FOR URANIUM MILLS

Enclosed are revised pages 15, 17, 21, 21a, 22, 29, 29a, 43, 44 and 45 to Appendix A of the June 25, 1979 version of SECY-79-413, "Licensing Requirements for Uranium Mills."

These revised pages reflect minor clarifications and/or corrections as identified below. Changes are shown in comparative text.

1. Pages 15 & 17 - The revisions on these pages reflect typographical corrections, i.e., replacing the letter "K" with the correct symbol "s" throughout the last paragraph of page 15 and correcting the numeration of § 40.2a on page 17.
2. Pages 21 and 22 - The date of May 17, 1979 (i.e., the date the Commission determined that a NRC license is required to possess byproduct material in Agreement States), has been incorporated into proposed paragraphs 40.26(b)(2) and 40.31(a)(2). This is to clarify that the proposed general license is applicable to Agreement State licenses issued before May 17, 1979, and that a specific NRC license is required relative to new licenses issued after May 17, 1979. Also, paragraph 40.26(c) has been modified to clearly indicate that the proposed general license is subject to applicable provisions of Parts 19, 20, 21, and 40 of the Commission's regulations (e.g., reporting, notification, and monitoring requirements, etc.). Paragraph 40.26(c) would now also require the

CONTACT: Don F. Harmon
443-5910

910 324

Commission to be immediately notified of any accidental release of tailings to unrestricted areas and/or unusual conditions which might lead to accidental releases.

3. Page 29 - This revision reflects a new proposed Criterion 8A in Appendix A of Part 40 which would clearly delineate a requirement for the Commission to be notified of accidental releases of tailings or waste to unrestricted areas and/or unusual conditions which might lead to accidental releases.
4. Page 44 - The revisions in this page reflect minor modifications to some of the numerical values of licensing fees. These changes are based on more detailed analyses of costs by NMSS.
5. Page 45 - The revision on this page deletes proposed § 170.31 from being immediately effective. NMSS and OELD have concluded that it is not required to make this proposed section immediately effective.

The corrected pages, attached, may be inserted in Appendix A of SECY-79-413 in lieu of the original pages 15, 17, 21, 22, 29, 44, and 45.



William J. Dircks, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

Revised Pages to Appendix A
June 25, 1979 Version of
SECY-79-413.

byproduct and special nuclear materials are used and possessed. The Commission also believes commencement of construction of these plants and facilities may also result in irreversible and irretrievable commitments of resources. Therefore, the Commission believes that it is also desirable and necessary that a final environmental impact statement or assessment be completed and documented before authorizing commencement of construction. Thus, 10 CFR 30.11(b), 10 CFR 30.33(a)(5), 10 CFR 70.14(b) and 10 CFR 70.23(a)(7) are being amended to conform to the foregoing amendments to 10 CFR 40.

The proposed amendments to 10 CFR Part 150 are to conform to Part 40's new definition of byproduct material and to Part 40's coverage of such byproduct material in Agreement States for the three years following enactment of UMTRCA. This is in accordance with UMTRCA's provisions requiring NRC licensing of tailings in Agreement States for the three year interim. Pursuant to UMTRCA, however, Agreement States may exercise concurrent jurisdiction over tailings and wastes for the three-year interim. A new proposed § 150.15a is added to enumerate certain authorities reserved in the Commission under UMTRCA. Paragraph (a) is drawn directly from sections 204(f) and 202(a) of UMTRCA. Paragraph (b) is extracted from § 83 of the Atomic Energy Act of 1954, as added by § 202(a) of UMTRCA. The language of UMTRCA and its legislative history indicate that the NRC is to make the determinations under and establish requirements pursuant to § 83, which minimum Federal standards and determinations must, under § 204(e) of the UMTRCA, be met by the Agreement States. New proposed § 150.31 and 150.32 outline requirements in the UMTRCA for Agreement State regulation of tailings or activities that produce such tailings or wastes. The new requirements, which become effective after

910 326

the Energy Reorganization Act of 1974 (88 Stat. 1242), and Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901).

2. § 40.2a of 10 CFR 40 is added to read as follows:

§ 40.2a Temporary coverage in Agreement States.

Until November 8, 1981, the regulations in this Part shall govern the Commission's licensing of byproduct material as defined in this Part in Agreement States.

3. § 40.2b of 10 CFR 40 is added to read as follows:

§ 40.2b Coverage of inactive tailings sites.

(a) Prior to the completion of the remedial action, the Commission will not require a license pursuant to this Part for byproduct material as defined in this Part that is located at a site where milling operations are no longer active, if such site is or is likely to be designated a processing site covered by the remedial action program of title I of the Uranium Mill Tailings Radiation Control Act of 1978. The Commission will exert its regulatory role during this period exclusively through concurrence and consultation in the execution of the remedial action pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978.

(b) The Commission will require a license pursuant to this Part for byproduct material as defined in this Part that is located at a site where milling operations are no longer active, if such site is not and will not be covered by the remedial action program of title I of the Uranium Mill Tailings Radiation Control Act of 1978; provided, however, that the criteria in Appendix A of this Part will be applied to the maximum extent practicable, with consideration given to the unique circumstances of such inactive sites.

910 327

that authority to receive title to, own, or possess byproduct material under this general license shall terminate when the specific license for source material expires, is renewed, or is amended to include a specific license for byproduct material as defined in this Part;

or

(2) in Agreement States until November 8, 1981, where activities that result in the production of byproduct material are authorized under a specific license issued by the Agreement State on or before May 17, 1979, to byproduct material possessed, or stored at an authorized disposal containment area or transported incident to such authorized activities; Provided, that authority to receive title to, own, or possess byproduct material under such general license shall terminate when such Agreement State license expires or is renewed, whichever first occurs.

(c) The general license in paragraph (a) of this section is subject to:

(i) The provisions of Parts 19, 20, 21, and sections 40.1, 40.2, 40.2a, 40.2b, 40.3, 40.4, 40.5, 40.6, 40.41, 40.46, 40.61, 40.62, 40.63, 40.65, 40.71, and 40.81 of Part 40 of this Chapter;

(ii) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in Appendix D of 10 CFR Part 20, or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas; and additional requirements the Commission may by order deem necessary.

910 328

~~(e)--The-general-license-in-paragraph-(a)-of-this-section-is-subject
to-any-additional-requirements-the-Commission-may-by-order-deem-necessary-~~

10. § 40.31 of 10 CFR 40 is amended by revising § 40.31(a) and adding a new § 40.31(g) as follows:

§ 40.31 Applications for specific licenses.

(a)(1) Applications for a specific license for source material or for byproduct material produced in conjunction with the uranium milling activity for which a source material license is sought from the Commission should be filed in quadruplicate on Form NRC--2 "Application for Source Material License," with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555.

Applications may be filed in person at the Commission's Offices at 1717 H Street, NW, Washington, D.C., or 7920 Norfolk Avenue, Bethesda, Md.

Information contained in previous applications, statements, or reports

910 329

filed with the Commission may be incorporated by reference, provided such references are clear and specific.

(2) Applications for specific licenses for byproduct material as defined in this Part not sought in conjunction with a source material license from the Commission for uranium milling shall be filed with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Such applications include, until November 8, 1981, applications for specific licenses from the Commission for such byproduct material generated by uranium milling under an Agreement State license issued or renewed after May 17, 1979.

* * * * *

(g) An application for a license to receive title to, own, receive, possess, and use source material for uranium milling or byproduct material, as defined in this Part, shall contain proposed specifications relating to milling operations and the disposition of the byproduct material to achieve the requirements and objectives set forth in Appendix A of this Part.

11. § 40.32 of 10 CFR 40 is amended by revising § 40.32(e) as follows:
§ 40.32 General requirements for issuance of specific licenses.

* * * * *

(e) In the case of an application for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the

910 330

operating procedures specifying the methods of control which will be utilized.

Criterion 8(A) - Daily inspections of tailings or waste retention systems shall be conducted and documented. The appropriate NRC regional office as indicated in Appendix D of 10 CFR Part 20, or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, shall be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

II. FINANCIAL CRITERIA

Criterion 9 - Financial surety arrangements shall be established by each mill operator to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements shall be based on cost estimates in an approved plan for (1) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon decommissioning, and (2) the reclamation of tailings and/or waste disposal areas in accordance with technical criteria delineated in Section 1 of this Appendix. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. The surety shall cover the payment of the charge for long-term surveillance required by Criterion 10. In

910 331

establishing specific surety arrangements, the licensee's cost estimates shall take into account total capital costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the Commission will accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or State agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long-term site surveillance. The

910 332

radiation incident to the process of producing or utilizing special nuclear material; or (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

* * * * *

(c) "Materials license" means a byproduct material license issued pursuant to Part 30 of this chapter, or a source or byproduct material license issued pursuant to Part 40 of this chapter, or a special nuclear material license issued pursuant to Part 70 of this chapter.

* * * * *

24. § 170.31 of 10 CFR 170 is amended to include a new category 4.D to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services.

* * * * *

4.D (1)	Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes (i.e., byproduct material) produced in conjunction with milling operations.	Application..... 10,000 New License ⁴ 83,800 Renewal ⁴ 93,800 Amendment ³ Major ⁴ 20,800 Minor ⁴ 3,500 Administrative... 150 Production scale activity: Application..... 7,000 New License ⁴ 52,600
(2)	Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes	

910 333

(i.e., byproduct material) produced
in conjunction with heap-leaching
operations.

- (3) Licenses specifically authorizing
the receipt, possession, use, or
ownership of tailings of wastes
(i.e., byproduct material) produced
in conjunction with in situ leaching
operations.

Research and development
scale activity:

Application.....	2,000
New License ⁴	14,800
Renewal ⁴	⁶ 13,800
Amendment ³	⁶ 4,200
Major ⁴	3,500
Minor.....	⁶ 760
Administrative.....	⁶ 150

Production scale activity:

Application.....	2,500
New License ⁴	16,900
Renewal ⁴	17,500
Amendment ³	4,600
Major ⁴	3,200
Minor.....	250
Administrative.....	150

Research and development
scale activity:

Application.....	850
New License ⁴	5,000
Renewal ⁴	65,600
Amendment ³	4,800
Major ⁴	⁶ 1,200
Minor.....	⁶ 250
Administrative.....	⁶ 150

* * * * *

25. § 170.32 of 10 CFR 170 is amended to include a new category 4.0
to read as follows:

§ 170.32 Schedule of fees for health and safety, and safeguards
inspections for materials licenses.

* * * * *

POOR ORIGINAL

910 335
910 334

4.D. Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes (i.e., byproduct material) produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.	Health and Safety.....1800 One Per Year
--	--

* * * * *

The Commission finds that because the regulations supporting the general license must be effective immediately so as to prevent existing milling operations from being in technical violation of the Atomic Energy Act, good cause exists pursuant to 5 U.S.C. 553 to waive the 30-day comment period, as impracticable and contrary to the public interest, and make the amendments to 10 CFR §§ 40.1, 40.2a, 40.2b, 40.3, 40.4, 40.26, 150.3, and 150.15, immediately effective. The Commission notes in this regard that informal written comments on this matter were solicited and received from industry, environmental groups, and several States (these comments may be found in the Commission's public document room in a memorandum dated May 9, 1979, from the Executive Legal Director to the Commission entitled "Staff Response to the Commission Request for Further Information Regarding SECY-79-88 'Timing of Certain Requirements of the Uranium Mill Tailings Radiation Control Act of 1979'"). Comments on these amendments are invited, however, and the new regulations remain subject to further modifications in response to such comments.

910 336