



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

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12/7/92  
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OFFICE OF THE  
SECRETARY

November 12, 1992

MEMORANDUM FOR: James M. Taylor  
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-92-238 - FINAL TECHNICAL POSITION ON  
ALTERNATE CONCENTRATION LIMITS FOR TITLE II  
URANIUM MILLS

The Commission (with all Commissioners agreeing) has approved publication of Enclosure 1 to SECY-92-238 as the staff final technical position on alternate concentration limits (ACLs) for Title II uranium mills, subject to the incorporation of the following comments.

1. It is inappropriate to establish binding standards in the context of a staff technical position document and it is premature to adopt EPA's ACL risk guidelines for hazardous waste sites as binding on this agency at this time. The staff should delete the lifetime risk level range of  $1 \times 10^{-6}$  to  $1 \times 10^{-4}$  and the discussion of risks in section 3.3.2.3.2 and replace it with an approach in which an existing relevant standard e.g. 40 CFR 190, would be referenced for guidance only. In making a required finding that a proposed ACL does not represent a substantial present or future hazard to human health when use of groundwater for drinking purposes must be considered, as well as in making ALARA determinations, such findings must necessarily be made on a case-by-case basis due to the absence of limits in regulations. Based on a risk conversion factor of  $5 \times 10^{-4}$  per person-rem for doses to the public that are within the limits of 40 CFR Part 190, the maximum annual individual risk would be approximately  $10^{-5}$ . For purposes of the ACL guidance, it should be understood that this value ( $10^{-5}$ ) represents the combined total risk from radiological and non-radiological hazardous constituents.

SECY NOTE: THIS SRM, SECY-92-238, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

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2. EPA should be advised of the approach being taken in the Technical Position concerning the risk standard, namely that the existing relevant requirements in the 40 CFR Part 190 would be used as a reference/guide in evaluating ACL applications. The staff should make revisions to the Technical Position based on this SRM, and transmit a copy of the revised Technical Position to EPA for comment. The staff should give the EPA 30 days to comment. When this period has elapsed, the staff should prepare the final Technical Position taking into consideration any comments received from EPA, and proceed to announce the availability of the Technical Position in the Federal Register.

At the same time and consistent with the MOU between NRC and EPA, the staff should also continue to work with EPA to develop a mutually agreeable approach to risk management and risk assessment methodologies for radionuclides in general, independent of the ACL guidance.

3. On page 28, under section 3.3.2.3.3, the first paragraph should be clarified that consultation with the U.S. Fish and Wildlife Service is required under the Endangered Species Act if an endangered or threatened species is found on the site or thought to inhabit the site.
4. The possibility exists for ACLs, based on a point of exposure distant from the point of compliance, to block eventual site transfer to the State or Federal government. Although the staff guidance would require "written assurance" of eventual property acceptance, there are pitfalls which the guidance does not address. These include the need for binding pre-determination of whether the State or Federal government will be the eventual site custodian, and the need for an authoritative commitment from that party. Unless such a commitment is secured by the licensee/applicant to the satisfaction of the Commission, ACL applications involving a distant POE should not be approved. In some cases, the POE will be located at the edge of the lands that will actually be used for byproduct material disposal as defined in Section 11e.(2) of the AEA, which include those lands necessary to accommodate the design features of the erosion control system and reasonable extensions necessary to include site terrain features, perimeter roadways, et cetera. Under those circumstances, the advance commitment by the State or Federal Government and approval by the Commission is not required.

cc: The Chairman  
Commissioner Rogers  
Commissioner Curtiss  
Commissioner Rerick  
Commissioner de Planque  
OGC  
OCAA  
OIG