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U.S. NRC

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STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY
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THOMAS W. ORTCIGER
DIRECTOR

January 27, 1993

JIM EDGAR
GOVERNOR

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Re: 10 CFR Part 40, Licensing of Source Material

Gentlemen:

The Illinois Department of Nuclear Safety (Department) hereby submits its comments on the referenced advanced notice of proposed rulemaking. The advanced notice requests comments on proposed changes to 10 CFR Part 40 that include all aspects of source material regulation: exemptions, general licenses, specific licensing for other than mills and tailings, and milling and mill tailings. The Department's comments will address the four aspects being considered in this advanced notice.

Exemptions. The Department agrees with the concept of requiring manufacturers and distributors to be specifically licensed for this activity. These manufacturers also should be required to have quality assurance programs. A report limited to only the quantities, types, and activities of products distributed may be useful information.

General Licenses. Of the options that could be taken to provide a greater assurance of safety under a general license, the Department supports Option 3; limiting the scope of activities permitted under the general license, and Option 5; requiring commercial distribution of source material for use under a general license to only be performed by a specific licensee. This approach would address concerns about contamination and waste generated by manufacturing or quality control procedures.

Specific Licensing. The Department agrees with the concept of requiring sealed sources and devices containing source material used under a specific license to be registered in the Sealed Source and Device Registry System. In addition, general requirements can be developed for manufacture and distribution of these sources and devices.

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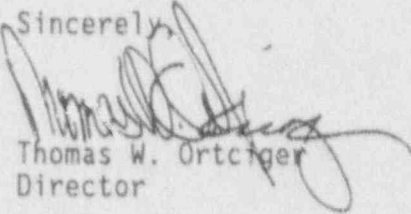
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Mills and Mill Tailings. The introduction to the "fifth issue" indicates concern only regarding disposal of waste from in-situ leaching operations. The proposed solution may be acceptable for such operations, however, it appears that the proposed solution could affect more than in-situ leaching operations. The Department does not support the generic proposal to permit "interim (up to 5 years) on-site storage of waste in those cases where it is demonstrated that there is no practicable off-site disposal option available and that on-site disposal is feasible." Whether NRC authorizes temporary on-site storage should not depend on the feasibility of on-site disposal, but should be based on health and safety considerations of temporary storage. We believe the NRC's proposal is deficient because it does not require the licensee to develop an off-site disposal site when on-site disposal is not feasible. It is the licensee's responsibility to dispose of waste and that obligation does not go away merely because no one else has elected to develop disposal facilities. We are deeply concerned that amending Criterion 2 of Appendix A to 10 CFR 40 as indicated in the notice, would be understood by some as relieving licensees of the obligation to develop disposal facilities. Additionally, the proposal may not be adequate for the in-situ operations since the proposal does not address situations where there is no practicable off-site disposal option available and on-site disposal is not feasible. In this case, temporary storage would not be allowed.

In general, the Department agrees that revisions to 10 CFR Part 40 are necessary. If you have any questions regarding these comments, do not hesitate to call Steve Collins at (217) 785-9947.

Sincerely,



Thomas W. Ortoger
Director

TWO:sjk

cc: Jim Lynch, State Agreements Officer