



40  
(57FR 48749)

14

## Texas Department of Health

David R. Smith, M.D.  
Commissioner

1100 West 49th Street  
Austin, Texas 78756-3189  
(512) 458-7111

Radiation Control  
(512) 834-6688

'93 FEB -2 AM 1:40

Robert A. MacLean, M.D.  
Deputy Commissioner

January 22, 1993

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

Attention: Docketing and Service Branch

Dear Sir:

We appreciate the opportunity to provide input on the issues described in the U.S. Nuclear Regulatory Commission's (NRC) Advanced Notice of Proposed Rulemaking (ANPRM) concerning the licensing of source material and mill tailings. Staff of the Bureau of Radiation Control have reviewed the ANPRM and associated material found in NUREG/CR-5881, "An Examination of Source Material Requirements Contained in 10 CFR Part 40," and offer the following comments for consideration.

1. Exemptions: Manufacturers of exempt products containing source material should be held to requirements similar to those containing byproduct material, including specifications for product safety, specific license requirement for commercial distribution, and periodic reporting of distributions. The specific authorization of such distribution and requirements for annual reporting of quantities of material transferred would improve the control of source material and would make the level of regulatory protection more consistent.
2. General License: This area of regulation has caused problems in regulatory programs for a long time. As with byproduct material and, for state radiation control programs, naturally occurring and accelerator produced radioactive material (NARM) general licenses, some higher degree of regulatory control is needed. Manufacturers and commercial distributors of generally licensed source material should be required to submit quarterly reports of transfers to general licensees so that the regulatory agency will know the identities and locations of the users. In addition, certain generally licensed devices containing source material should be registered with or acknowledged by the appropriate regulatory agency. The use of generally licensed material should be limited and clearly specified in the regulation.

9302170066 930122  
PDR PR  
40 57FR48749 PDR

0510

Depleted uranium used as shielding could be generally licensed without a loss of adequate radiation protection. We believe that the wording of 40.25 needs clarification to inform the regulated community that this general license can apply to shielding. Our program has encountered several situations in which particle accelerators contain depleted uranium for shielding. If the shielding can be generally licensed, the accelerator could be registered as a radiation machine and the corresponding fee would be less. In some cases, we have already been able to make this change.

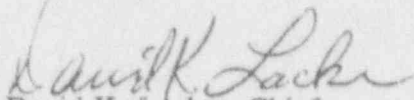
3. Specific Licensing: Since there is so much variation in the uses of source material, other than mining and millings under specific licenses, attempting to develop generally applicable standards would not be feasible or practical. Regulatory guides could be used to address specific licensing issues.
4. Milling and Mill Tailings: We concur with the proposed definition for "ore." Uranium mills should be able to process materials for source material recovery but not use the mill only as a method of creating byproduct material.

We feel that NRC should expand 10 CFR Part 40 mining and milling regulations to include commercial disposal of 11e.(2) by product material. Many in situ facilities are undergoing restoration. A clear regulatory mechanism for disposal should be considered that would fit in with NRC position on disposal of in situ waste. In addition, NRC should address other types of material that would be compatible with this type of disposal, such as low concentrations of source material with similar radiological characteristics to byproduct material.

Issues pertaining to mining and milling should be addressed in rulemaking separate from those regarding exemptions and general licensees. The regulated community for the two areas are different, thus creating a myriad of diverse comments if all amendments were made under one proposed rule.

If you have any questions concerning these comments and suggestions, do not hesitate to contact us.

Yours truly,



David K. Lacker, Chief  
Bureau of Radiation Control