



OFFICE OF THE
SECRETARY

PR 40
49 FR 46418
AB 50-2
PDR

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

November 2, 1984

ACTION - Davis

Cys: Dircks
Roe
Rehm
Stello
DMartin, NMSS
GCunningham
Kerr
Minogue
Felton
Philips
Besaw
Shelton

MEMORANDUM FOR: William J. Dircks, Executive Director
for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: COMMISSION ACTION ON URANIUM MILL
TAILINGS REGULATIONS

This is to advise you that the Commission (with Chairman Palladino and Commissioners Roberts, Asselstine, Bernthal, and Zech approving) has agreed to proceed with publication of the proposed rule and advanced notice of rulemaking subject to:

1. The advanced notice of proposed rulemaking should be revised by removing the section (pages 8-11) on "Implementation and Enforcement Policy" and inserting in its place a section (Attachment 1) on "Commission Authority and Responsibility".
2. The proposed rule should be revised by removing the section (pages 13-16) on "Implementation and Enforcement Policy" and inserting in its place the section (as above) on "Commission Authority and Responsibility".

These changes should be made and the Federal Register Notice should be returned for signature and publication.

(DDO) (SECY SUSPENSE: ASAP)
NMSS

You should also revise the draft letters to Congressman Udall and Senators Simpson and Domenici to be consistent with the above notice and return the letters for Commission review and signature.

(DDO) (SECY SUSPENSE: ASAP)
NMSS

PROCESSED
Date: 11-5-84
Time: 4:30 P.

8512040010 851115
PDR PR
40 49FR46418 PDR

Commissioner Asselstine would have preferred the original Implementation and Enforcement Policy Statement agreed to by the Commission.

Attachments:
As Stated

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
OGC
OPE

Commission Authority and Responsibility

Section 84c. of the Atomic Energy Act states that:

A Licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with Section 275.

The Commission historically has had the authority and responsibility to regulate the activities of persons licensed under the Atomic Energy Act of 1954, as amended. Consistent with that authority and in accordance with Section 84c. of that Act, the Commission has the discretion to review and approve site specific alternatives to standards promulgated by the Commission and by the Administrator of the Environmental Protection Agency. In the exercise of this authority, Section 84c. does not require the Commission to obtain the concurrence of the Administrator in any site specific alternative which satisfies Commission requirements for the level of protection for public health, safety, and the environment from radiological and nonradiological hazards at uranium mill tailings sites. As an example, the Commission need not seek concurrence of the Administrator in case-by-case determinations of alternative concentration limits and delisting of hazardous constituents for specific sites. It should be understood that the proposed conforming regulations deal with the exercise of the Commission's responsibility and authority under the Atomic Energy Act of 1954, solely as regards uranium mill tailings sites and have no broader connotation.

The Commission believes that licensee proposals for alternatives can be an important and effective way to help deal with the problems associated with implementing the new EPA standards. The Commission expects that it may require several years to have its conforming regulations fully in place. It expects to use the flexibility provided by Section 84 in the interim to consider and approve alternative proposals from licensees. Section 84c. provides NRC sufficient authority to independently approve alternatives so long as the Commission can make the required determination.



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

November 2, 1984

To: KITTY DRAGONETTI

ROOM 740 SS
X 74300

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for Operations

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(EDO) (SECY SUSPENSE: ASAP)

Joe
FYI
Rob has
copy - Ticket -
still not done
My report + done
Kathy

Action -
Ticket for John
Done 5 work
done

24

11/13/84

-2-

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Attachments:
As Stated

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Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
OGC
OPE

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-2-

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The Commission believes that licensee proposals for alternatives can be an important and effective way to help deal with the problems associated with implementing the new EPA standards. The Commission expects that it may require several years to have its conforming regulations fully in place. It expects to use the flexibility provided by Section 84 in the interim to consider and approve alternative proposals from licensees. Section 84c. provides NRC sufficient authority to independently approve alternatives so long as the Commission can make the required determination.