

**Emerging Issues in Uranium Mining and Milling**  
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Over the sixteen (16) years I have been practicing in the field of uranium mining and milling, there have been multiple developments in the regulatory environment with a variety of federal and State regulatory agencies. Agencies such as the United States Nuclear Regulatory Commission (NRC) and its Agreement States and the United States Environmental Protection Agency (EPA) have either commenced or completed several rulemaking processes, policy developments, and guidance that have spurred or stunted the development of new uranium mining and milling projects and have led to or prevented consistent investment in such projects. Ever since the “nuclear renaissance” in 2006-2007, these agencies and industry groups along with individual companies have sought regulatory interpretations and efficiencies to reduce the relative unpredictability of license issuance and the costs associated with such licenses. But, while previous years have yielded some startling developments, the past three (3) years have been very eventful to the point where the current Administration is attempting to significantly modify or eliminate initiatives offered under the previous Administration. This presentation is narrowly focused on five (5) of the initiatives that are currently underway or are in the final stages of completion.

EPA has been the main source of the initiatives that have the most potential for negative impacts on the uranium mining and milling industry. The first of these initiatives that require immediate attention is their two (2) attempts to revise and augment its Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) “generally applicable standards” to include increased and overly onerous and duplicative regulation of in situ leach uranium recovery (ISR) facilities. As has been stated by multiple trade associations and individual companies, EPA’s Proposed Rules for this endeavor attempts to stretch EPA’s authority under UMTRCA to places outside the scope defined by Congress and fails to comply with UMTRCA’s requirements for “generally applicable standards.” The second initiative is EPA’s attempt to impose additional and unnecessarily duplicative financial assurance requirements on uranium milling facilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). These financial assurance requirements are proposed to be imposed despite EPA’s willingness to not list uranium milling sites directly regulated by NRC and Title I sites on the National Priorities List (NPL) and the fact that CERCLA’s sister statute, the Resource Conservation and Recovery Act (RCRA), specifically exempts source and byproduct material from its jurisdiction. These otherwise duplicative and onerous financial assurance requirements, which are offered despite NRC’s (and its Agreement States’) express requirements for financial assurance and annual updates, can result in the inability for existing uranium mills to operate and the failure to develop new resources.

Other initiatives that are currently underway come from a variety of sources. NRC is attempting implementation of a fee pilot program to assist licensees and license applicants in better understanding how their money is being spent by the agency during a review process,

especially during the National Environmental Policy Act (NEPA) environmental review process. This program is being initiated to provide more transparency in the process and to see if flat fees for reviews of different types of licensing actions can be imposed rather than simple hourly billing.

The State of Wyoming has embarked on a process to become an Atomic Energy Act of 1954, Section 274 Agreement State over the limited category of uranium milling and 11e.(2) byproduct material. The State is currently more than halfway through the Agreement State process and anticipates completion of the process and transition to Agreement State status in the last half of 2018.

NRC and the Colorado Department of Public Health and Environment (CDPHE) also has raised some significant regulatory issues through its evaluation of the regulatory environmental for ablation mining technology. Over a two-year period, NRC and CDPHE have issued several regulatory opinions regarding how this technology should be regulated and concluded that it would be a uranium milling process. Industry groups and companies do not agree with this interpretation from both a legal and a practical perspective and are seeking to have this position re-evaluated in the future. It is likely that this interpretation potentially could stretch across the uranium mining industry and should be fully evaluated under existing law.