

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

State of Utah: NRC Staff Assessment of Utah's Proposed Alternative Standard To Use Utah's Existing Groundwater Regulation in Lieu of the Nuclear Regulatory Commission Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice and opportunity for public hearing on Utah's proposal to use alternative groundwater protection standards for uranium mills and 11e.(2) byproduct material disposal facilities.

SUMMARY: By letter dated October 23, 2002, to Paul Lohaus, Director, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission (NRC), William J. Sinclair, Director, Division of Radiation Control (the Division), State of Utah, submitted information on how the Division proposes to regulate a portion of the groundwater aspects of uranium milling in the State of Utah. Utah's proposed approach is to use its existing groundwater protection regulations, based on Environmental Protection Agency (EPA) drinking water limits, in lieu of a portion of the specific groundwater requirements in Appendix A to 10 CFR part 40 (Appendix A). The Commission has determined that Utah's proposed approach constitutes use of alternative standards. Under section 274o of the Atomic Energy Act, as amended (Act), the Commission must make a determination 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 non-radiological hazards associated with such sites, after notice and opportunity for public hearing. Through this **Federal Register** notice, the Commission intends to fulfill both the notice and opportunity for public

hearing provisions of section 274o of the Act.

DATES: The comment period expires September 26, 2003. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff.

E-mail comments to: SECY@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 p.m. Federal workdays. (Telephone (301) 415-1966.)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/NRC/ADAMS/index.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. Copies of documents cited in this section are available through ADAMS. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdr@nrc.gov.

The Division has posted documents related to its amendment application including the alternative groundwater regulations on the Division's Web site at: <http://www.deq.state.ut.us/EQRAD/millst.htm>.

Copies of comments received by NRC may be examined at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O-1-F21, Rockville, Maryland. Copies of the Division's submittal and copies of the NRC Staff correspondence with the Division are also available for public inspection in the NRC's Public Document Room. The ADAMS Accession Numbers are

presented with the first mention of each document (*i.e.*, ML.* * *).

FOR FURTHER INFORMATION CONTACT:

Dennis M. Sollenberger, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone (301) 415-2819 or e-mail dms4@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Since section 274 of the Act was added in 1959, the Commission has entered into Agreements with 33 States that authorize a State to regulate the use of radioactive material within the State. NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of section 274. The Act was amended in 1983 to add the last paragraph of section 274o which requires the Commission to make a determination, after notice and opportunity for public hearing, that alternative standards 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 non-radiological 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 (EPA) in accordance with section 275.

The State of Utah Agreement became effective April 1, 1984, but did not include authority for 11e.(2) byproduct material or the land disposal of source, byproduct and special nuclear material received from other persons. In 1990, Utah amended its Agreement to include land disposal of source, byproduct and special nuclear material received from other persons. In 1996, Utah returned its authority for the evaluation of radiation safety information on sealed sources and devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations. The State of Utah initiated further amendment of their current section 274b Agreement to add authority for 11e.(2) byproduct material by a letter of intent from Governor Michael Leavitt dated June 26, 2001