

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; Addition of Supplementary Information, Notice of Availability of Documents, and Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplementary information on hearing process; availability of documents; extension of comment period.

SUMMARY: The NRC is supplementing the information provided in the Notice and Opportunity for Public Hearing: "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" (68 FR 51516; August 27, 2003). This supplement provides details about the hearing process discussed in the August 27, 2003 notice. In addition, although already publicly available from the National Technology Information Service (NTIS) where they can be purchased, the two documents referenced in the August notice, *i.e.*, NUREG-0706, *Final Generic Environmental Impact Statement on Uranium Milling* (September 1980), and EPA 520/1-83-008, *Final Environmental Impact Statement for Standards for the Control of Byproduct Materials from Uranium Processing* (September 1983), have been placed into the NRC's Publicly Available Records (PARS) component of NRC's document system (ADAMS). The NRC is also extending the date by which interested persons may submit comments on this action.

DATES: The comment period expires on November 24, 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: Rulemakings and Adjudications Staff. Email 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 a.m. and 4:15 p.m. Federal workdays.

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

The documents referenced in the **SUMMARY** paragraph, as well as copies of comments received by the NRC, the State's submittals, and the correspondence between the State and the NRC staff, are accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/html>. The ADAMS accession numbers for NUREG-0706, *Final Generic Environmental Impact Statement on Uranium Milling* (September 1980) is ML032751661, and for EPA 520/1-83-008, *Final Environmental Impact Statement for Standards for the Control of Byproduct Materials from Uranium Processing* (September 1983), is ML032751390. The documents, comments, submittals, and correspondence are also available, and may be copied for a fee, at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O-1-F21, Rockville, Maryland 20852.

This notice, the August 27, 2003 (68 FR 51516) notice, and the comments received on the August 27, 2003 notice, are available on the NRC Web site at <http://ruleforum.llnl.gov> under the information/comment request category.

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

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

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 State), State of Utah, submitted information on how the State 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 proposal constitutes use of alternative standards. The Uranium Mill Tailings Radiation Control Act of 1978 which amended the Atomic Energy Act of 1954 (Act), by adding Section 274o, requires the Commission to make a determination that such 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, that is equivalent to, to the extent practicable, or more stringent than the level that would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose, after notice and an opportunity for hearing. However, neither the Act nor its legislative history, identify the type of hearing the Commission must use. Therefore, the