

August 11, 2003

MEMORANDUM TO: William D. Travers  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - COMSECY-03-0038 - FEDERAL  
REGISTER NOTICE - UTAH ALTERNATIVE GROUNDWATER  
REGULATIONS

The Commission has approved publication in the Federal Register notice of a hearing process similar to the process in Subpart H of 10 CFR Part 2 to implement the notice and hearing requirement in Section 274o of the Atomic Energy Act, as amended, subject to the changes provided in the attachment.

Attachment: Changes to the Federal Register Notice in COMSECY-03-0038

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
OGC  
CFO  
OCA  
OIG  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR

Changes to the Federal Register Notice in COMSECY-03-0038

1. On page 3, revise line 2 to read ' ... 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 274b 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. [new paragraph]

The State of Utah ...'

2. On page 4, line 8 from the top, change the 1<sup>st</sup> "of" to "or". Delete the sentence in lines 11 and 12 (NRC periodically reviews ... Section 274.)
3. On page 4, 1<sup>st</sup> full paragraph, revise lines 2 and 3 to read ' ... groundwater protection standards to protect the waters of the State from uranium mining operations, in lieu of the groundwater protection requirements in Appendix A. Utah's regulations are based on the EPA's hazardous waste program and differ in several respects from the groundwater protection provisions in Appendix A. Therefore, the Commission has determined that Utah's proposed approach constitutes the use of alternative standards.' Delete the remainder of the paragraph including the portion carried over on to page 5 (The NRC staff considers ... Section 275.)
4. On page 5, 1<sup>st</sup> full paragraph, revise line 1 to read ' ... NRC had not previously identified any ....'
5. On page 7, paragraph 2, revise line 5 to read ' ... byproduct material that is are consistent with ....'
6. On page 8, paragraph 1, revise line 3 to read ' ... facilities as well as other industries ....' Revise the last line to read ' ... drinking water regulations in 40 CFR Parts 141 and 142 to reflect current ....'
7. On page 8, paragraph 2, line 1, delete the "s" in "limits". Revise lines 3 through 5 to read ' ... updated by EPA. As noted above, NRC standards are based on the MCLs in effect in the EPA's 1983 when EPA issued its uranium milling operations. Primary drinking water standards. Therefore, the different values for the MCLs are due to EPA updating its MCLs in 10 CFR Parts 141 and 142 based on newer ....' Revise the last line to read ' ... NRC regulations. The even though the Utah regulation, however, is based on the more ....'