

# 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](mailto: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](mailto: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](mailto: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 2740, 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

Commission has the discretion to determine how to implement this requirement in Section 274o of the Act. The August notice discusses this issue but did not provide the specifics of the Subpart H-like process that the Commission has adopted, based on Subpart H of 10 CFR Part 2, to fulfill the notice and hearing requirement in Section 274o of the Act. This notice is intended to supplement the August notice by providing clarification of what is meant by the Subpart H-like process.

### Discussion

The Commission has, in its discretion, adopted the notice and comment process in Subpart H of 10 CFR Part 2 to fulfill its notice and hearing requirement in Section 274o of the Act. The Subpart H-like process described in this notice is similar to that in 10 CFR 2.804. Specifically, notice for this Section 274o process provides for: (1) A notice that includes the substance of the proposal or specifications of the subject and issues involved (the August 27, 2003 notice as supplemented by this notice); (2) the manner and time within which interested members of the public may comment (the information regarding the submittal of comments and the deadline, which has been extended to November 24, 2003 for submitting comments), and an opportunity for members of the public to examine those comments at the NRC Web site; and (3) such explanatory statements as the Commission may consider appropriate (which refers to the Supplemental Information provided in the August 27, 2003 notice as supplemented by this notice). In addition, the Subpart H-like process will (4) also provide, similar to the provision in 10 CFR 2.805(a), that in such proceedings, the Commission will afford interested persons the opportunity to participate through the submission of statements, information, opinions, and arguments in the manner stated in the notice, as well as additional reasonable opportunity for the submission of comments.

Accordingly, the August 27, 2003 notice as supplemented by this notice, constitute the notice required by Section 274o of the Act.

Dated at Rockville, Maryland, this 20th day of October, 2003.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 03-26895 Filed 10-23-03; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 71

#### Regulations for the Safe Transport of Radioactive Material; Public Meeting

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Transportation (DOT) are jointly seeking public views on U.S. DOT positions on the proposed changes to the requirements of the 1996 Edition for the Safe Transport of Radioactive Material (TS-R-1). The changes will likely necessitate domestic compatibility rulemakings by both NRC and DOT. To discuss U.S. DOT positions on the proposed changes, DOT is convening a public meeting as the U.S. competent authority for transportation matters before IAEA. Recognizing DOT's role, in lieu of separate meeting, NRC will participate at the meeting.

**DATES:** The public meeting will be held on November 5, 2003, from 9:30 a.m. to 11 a.m.

**ADDRESSES:** The meeting will be conducted at the Department of Transportation, Nassif Building, 400 Seventh Street, SW., Room 6244, Washington, DC, 20590-0001 in room 8236-8240.

**FOR FURTHER INFORMATION CONTACT:** John Cook, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: (301) 415-8521; e-mail: [jrc1@nrc.gov](mailto:jrc1@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

On May 9, 2003, the International Atomic Energy Agency (IAEA) posted 63 proposed changes to the requirements of the 1996 Edition of the Agency's Regulations for the Safe Transport of Radioactive Material (TS-R-1) on the World Wide Web [see [http://hazmat.dot.gov/files/IAEA\\_TS-R-1\\_rev\\_prop.pdf](http://hazmat.dot.gov/files/IAEA_TS-R-1_rev_prop.pdf)]. IAEA's revision process calls for Member States and International Organizations to have an opportunity for a period of 120 days to provide comments. The objective is publication of revised regulations in 2005, nominally to become effective worldwide in 2007.

The IAEA periodically revises its transportation regulations (referred to as TS-R-1) to reflect new information and accumulated experience. In 2000, IAEA requested proposals for change to

ultimately result in a 2005 edition of TS-R-1. Over 200 proposals were submitted to IAEA to change the regulations, guidance material, or identify problems for further work. These were later narrowed down to 63 proposals that were accepted for comment.

Because some of the proposed changes being considered for the 2005 edition of TS-R-1 would, if approved, result in a need to consider a revision of U.S. transport regulations (49 CFR 100-185 and 10 CFR part 71), the DOT and the NRC are jointly seeking public views on the U.S. DOT positions on the proposed changes. This information will assist DOT and NRC in having a full range of views as the proposals are developed. Note that future domestic rulemakings, if necessary, will continue to follow established rulemaking procedures, including the opportunity to formally comment on proposed rules.

The DOT is the U.S. competent authority before IAEA for radioactive material transportation matters. On July 22, 2003, DOT held a public meeting to obtain public comment on the proposed changes (as was announced in the **Federal Register** on June 10, 2003, 68 FR 34695), and accepted written comments through August 8, 2003. Rather than convene a separate public meeting, as co-regulators for U.S. radioactive material transportation matters, NRC announced on June 26, 2003 (68 FR 3796), that it would participate at DOT's public meeting.

DOT has since considered public comments received and forwarded U.S. DOT positions on the proposed changes to IAEA. A summary of the U.S. DOT positions may be downloaded at [http://hazmat.dot.gov/files/IAEA\\_TS-R-1\\_dot\\_position.pdf](http://hazmat.dot.gov/files/IAEA_TS-R-1_dot_position.pdf). On October 14, 2003, DOT published a notice in the **Federal Register** announcing that DOT will conduct a public meeting to discuss U.S. DOT positions on the proposed changes on November 5, 2003, at DOT Headquarters. NRC staff will be available at that meeting to respond to any technical questions concerning the positions' potential impacts to Type B or fissile materials regulated in 10 CFR part 71.

Dated at Rockville, Maryland, this 20th day of October 2003.

For the Nuclear Regulatory Commission.

**David W. Pstrak,**

*Transportation and Storage Project Manager,  
Office of Nuclear Material Safety and Safeguards.*

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