

NUCLEAR REGULATORY COMMISSION

**State of Utah: Final Determination on Proposed
Alternative Groundwater Standards for 11e.(2) Byproduct Material**

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Final Commission Determination under Section 274o of the Atomic Energy Act of 1954, as amended; State of Utah Proposed Alternative Groundwater Standards.

SUMMARY: This notice is announcing that on July ??, 2004, the Nuclear Regulatory Commission (NRC) made the determination required by section 274o of the Atomic Energy Act of 1954, as amended (Act) for Agreement State proposed alternative standards for 11e.(2) byproduct material. The Commission has determined that the State of Utah proposed alternative groundwater 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 in accordance with section 275 of the Act. This notice completes the notice and public hearing process required in section 274o of the Act for proposed State alternative standards.

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: The Commission approved a similar process to that specified at 10 CFR Part 2, Subpart H to fulfill both provisions for notice and for opportunity for public hearing required by section 274o of the Act. The Commission published a notice and opportunity for public hearing in the Federal Register on the State of Utah's proposed alternative groundwater standards for a 30-day comment period (68 FR 51516, August 27, 2003). On October 24, 2003, the Commission published a clarification of the notice and opportunity for public hearing in the August 27, 2003 notice, noticed the electronic availability of two documents referenced in the earlier notice, and extended the comment period for an additional 30 days (68 FR 60885). The public comment period ended on November 24, 2003. The Commission received three comment letters on Utah's alternative groundwater standards proposal (ML032750048, ML032820353, and ML033420067) and one letter with supplements on the Commission's alternative standards determination process (ML032720672, ML032750048, and ML033140034). The NRC staff prepared a letter response dated June 21, 2004 (ML041770014) to the commenter on the Commission's process for notice and opportunity for public hearing for State alternative standards.

The NRC staff prepared an analysis of comments for the comments received on Utah's proposed alternative groundwater standards (ML041940322). One commenter did not object to Utah's alternative groundwater regulations; however, the commenter said the discharge permit discussions on implementation is the test of the standards. Another commenter stated that the Utah's proposed alternative groundwater standards were equivalent or more stringent than the NRC and EPA groundwater standards. The third commenter raised concerns with NRC's past implementation of its groundwater standards and wants Utah to implement a more rigorous

groundwater protection program. No deficiencies in Utah's proposed alternative groundwater standards were identified by the commenters.

The Commission considered the information provided in SECY-03-025 (ML032901045) which included the State of Utah comparison between Utah's proposed alternative groundwater standards and NRC's standards, and the NRC staff's initial determination that Utah's proposed alternative groundwater standards are equivalent to or more stringent than the NRC groundwater standards. The Commission considered the comments submitted in response to the August 27 and October 24, 2003 Federal Register notices and the NRC staff's analysis of the comments, and the NRC staff's recommendation that the Commission approve a final determination that Utah's alternative groundwater standards meet the requirements in section 274o of the Act. On July [], 2004, the Commission made a determination that Utah's alternative groundwater standards are equivalent to or more stringent than the NRC's groundwater standards for 11e.(2) byproduct material.

The documents referenced above and 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/adams.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. 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.

Dated at Rockville, Maryland, this day of July, 2004.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.