

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0142]

**Conducting the Section 106 Process of the National Historic Preservation Act for
Uranium Recovery Licensing Actions**

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing draft Interim Staff Guidance (ISG) FSME-ISG-02, "Guidance for Conducting the Section 106 Process of the National Historic Preservation Act for Uranium Recovery Licensing Actions," for review and comment. The purpose of this draft ISG is to assist NRC staff in conducting the Section 106 process of the National Historic Preservation Act of 1966, as amended (NHPA), specific to uranium recovery licensing actions. While this guidance is primarily intended for the NRC staff, it also provides useful information to participants in the Section 106 process for uranium recovery licensing actions.

DATES: Submit comments by **[INSERT DATE 75 DAYS FROM DATE OF PUBLICATION]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0142**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Office of Administration, Mail Stop: 3WFN-06-44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Diana Diaz Toro, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington DC, 20555-0001; telephone: 301-415-0930; e-mail: Diana.Diaz-Toro@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments.

A. Obtaining Information

Please refer to Docket ID **NRC-2014-0142** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0142**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The draft ISG, FSME-ISG-02, "Guidance for Conducting the Section 106 Process of the National Historic Preservation Act for Uranium Recovery Licensing Actions," is available in ADAMS under accession number ML14163A049.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID **NRC-2014-0142** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into

ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background.

The NRC is responsible for regulating the civilian use of nuclear materials and facilities in a manner that protects public health and safety from radiological hazards and common defense and security. The NRC has statutory authority to regulate and license uranium recovery facilities through the Atomic Energy Act of 1954, as amended (AEA) and the Uranium Mill Tailings Radiation Control Act of 1978. In part, these statutes require that the NRC to ensure the management of source material, as defined in AEA Section 11z., and byproduct material, as defined in AEA Section 11e.(2), conforms to applicable regulatory requirements.

License applicants initiate the proposed federal action by submitting an application to the NRC for projects or activities requiring an NRC license or approval. The NRC must then make a decision whether to grant or deny the applicant's request. In addition to the NRC staff's safety review, the NRC staff conducts an environmental review, as required under the National Environmental Policy Act of 1969, as amended (NEPA). Through the environmental review, the NRC evaluates the potential environmental impacts from the applicant's proposal. The NRC's NEPA implementing regulations are in Part 51 of Title 10 of the *Code of Federal Regulations*

(10 CFR), “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.”

Congress enacted the NHPA to support and encourage the preservation of prehistoric and historic resources. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and allow the Advisory Council on Historic Preservation an opportunity to review and comment on the undertaking. The NHPA implementing regulations are in 36 CFR 800, “Protection of Historic Properties.” Federal agencies carry out the Section 106 process through consultation as appropriate with the State Historic Preservation Officer, Tribal Historic Preservation Officer, other federal, state, and local governmental agencies, Tribal governments, other interested parties, and the public. The NRC conducts the Section 106 process as part of its reviews of requests for license applications. In accordance with 36 CFR 800.1(c), the NRC must complete the Section 106 process prior to making licensing decision on the request for the licensing action.

The NRC’s guidance for conducting environmental reviews in support of the Office of Federal and State Materials and Environmental Management Programs and Office of Nuclear Material Safety and Safeguards licensing and regulatory actions is provided in NUREG-1748, “Environmental Review Guidance for Licensing Actions Associated With Nuclear Material Safety and Safeguards Programs” (ADAMS Accession No. ML032450279). NUREG-1748 also includes general guidance for complying with the NHPA Section 106 process.

Over the past several years, an increase in the number of licensing action for *in situ* uranium recovery (ISR) facilities has resulted in an increase in the NRC’s Section 106 activities. In addition, the complexity of the Section 106 reviews associated with the ISR licensing actions has grown significantly. As a result, the NRC has decided to supplement the Section 106 guidance contained in NUREG-1748 by providing specific guidance for the NRC’s implementation of the Section 106 process in uranium recovery licensing actions. The purpose

of this draft ISG is to assist NRC staff in conducting the Section 106 process specific to uranium recovery licensing actions. While this guidance is primarily intended for the NRC staff, it is also provides useful information for participants in the Section 106 process for uranium recovery licensing actions. This ISG, however, only provides guidance and does not impose regulatory requirements.

The NRC staff plans to revise the applicable sections of NUREG-1748 to include the guidance in this ISG. Until then, the NRC staff will use this ISG and revise and update the document as needed to clarify the content or incorporate subsequent modifications.

The NRC staff will review and consider the comments received in response to this request and revise the ISG as appropriate.

Dated at Rockville, Maryland, this 12th day of June 2014.

For the U.S. Nuclear Regulatory Commission.

/RA/

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