



NUCLEAR REGULATORY COMMISSION

[NRC-2011-0258]

Final Alternative Soils Standards for the Uravan, Colorado, Uranium Mill

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Uranium milling alternative standards.

SUMMARY: This document announces that on May 18, 2012, the U.S. Nuclear Regulatory Commission (NRC or the Commission) made a determination required by Section 274o of the Atomic Energy Act of 1954, as amended (the Act), for Agreement State proposed alternative standards for 11e.(2) byproduct material. The Commission has determined that the State of Colorado's proposed alternative soils standards will achieve a level of stabilization and containment of the sites concerned. It will also provide a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites equivalent to or more stringent than the level that would be achieved by existing standards and requirements, to the extent practicable. Existing standards include those adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the U.S. Environmental Protection Agency (EPA) in accordance with Section 275 of the Act. This document completes the notice and public hearing process required in Section 274o of the Act for proposed State alternative soil standards.

DATES: The Commission made a determination on the State of Colorado's proposed alternative soils standards on May 18, 2012.

ADDRESSES: Please refer to Docket ID NRC-2011-0258 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0258. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly-available documents online in the NRC Library 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 ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **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.

FOR FURTHER INFORMATION CONTACT: Dennis M. Sollenberger, telephone: 301-415-2819; e-mail: Dennis.Sollenberger@nrc.gov, or Stephen Poy, telephone: 301-415-7135; e-mail: Stephen.Poy@nrc.gov. Both serve in the Office of Federal and State Materials and

Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION: Since Congress added Section 274 of the Act in 1959, the Commission has entered into Agreements with 37 States that relinquished Federal authority. Under these Agreements, each State assumed regulatory authority under State law to regulate certain radioactive materials within the State. The NRC periodically reviews the performance of the Agreement States to ensure compliance with the provisions of Section 274. Congress further amended the Act In 1978 by adding a new subsection, Section 274o, which required Agreement States to specifically amend their agreements to regulate uranium mill tailings (11e.(2) byproduct material). Six Agreement States have this authority as part of their agreements. Under Section 274o of the Act, an Agreement State may adopt site-specific alternative standards with respect to sites at which ores are processed primarily for their source material content or at sites used for the disposal of Section 11e.(2) byproduct material. Before a State can adopt alternative standards, the Commission must make a determination that the alternative standards will achieve a level of stabilization and containment of the site concerned, and the alternative standards will provide an equivalent or more stringent level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the site. In addition, before making a determination, the NRC must provide notice and an opportunity for public hearing before approving the site-specific alternative standards.

The Commission approved a process similar to that specified in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Subpart H, "Rulemaking," to fulfill both provisions for notice and for opportunity for public hearing required by Section 274o of the Act. This document completes the notice and opportunity for public hearing provisions of the Act with the notice of the final Commission determination. In a memorandum dated August 21, 2011 (ADAMS Accession No. ML112010137), the NRC's Executive Director for Operations notified the Commission of the staff's intention to publish a notice and opportunity for public hearing in the *Federal Register* on the State of Colorado's proposed alternative soils standards for a 30-day comment period (76 FR 70170; November 10, 2011). The public comment period and opportunity for hearing ended on December 12, 2011. The Commission received two comment letters on Colorado's alternative soils standards proposal (ADAMS Accession Nos. ML11346A586 and ML12033A032).

The NRC staff prepared an analysis of the comments received on Colorado's proposed alternative soils standards (ADAMS Accession No. ML120330021). The first of the two commenters wrote in support of Colorado's alternative soils standards. The second of the two commenters questioned the basis for applying alternative standards and requested a clarification regarding the requirements and the use of the alternative soils standards in the decommissioning process and in transferring the Uravan uranium mill site to the U.S. Department of Energy. The NRC staff found no deficiencies in Colorado's proposed alternative soils standards but the staff did make changes to its assessment to add clarity in response to the comments (ADAMS Accession No. ML120330018).

The Commission considered the comments submitted, the NRC staff's analysis of the comments, and the NRC staff's recommendation that the Commission approve a final

determination that Colorado's proposed alternative soils standards meet the requirements in Section 274o of the Act. The Commission has determined that the State of Colorado's proposed alternative soils standards will achieve a level of stabilization and containment of the sites concerned. They also achieve a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites that is more stringent than the level that would be achieved by existing standards and requirements. Existing standards include those promulgated by the Administrator of the EPA in accordance with Section 275 of the Act.

Dated at Rockville, Maryland, this 7th day of June, 2012.

For the Nuclear Regulatory Commission.

/RA/

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

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