

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 71

NUREG-1886, "Joint Canada—United States Guide for Approval of Type B(U) and Fissile Material Transportation Packages, Draft Report for Comment"

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of document availability and request for public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability of and is seeking public comment on the draft NUREG-1886, "Joint Canada—United States Guide for Approval of Type B(U) and Fissile Material Transportation Packages."

DATES: Comments on this document should be submitted by August 19, 2008. Comments received after this date will be considered if it is practical to do so, however we are only able to assure consideration for comments received on or before this date. To ensure efficient and complete comment resolution, comments should include reference to the section, page, and line numbers of the document to which the comment applies, if possible.

ADDRESSES: Members of the public are invited and encouraged to submit written comments to Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments may be submitted by electronic mail to nrcprep@nrc.gov. Comments may also be hand delivered to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received may be viewed at the NRC's Public Document Room, One White Flint North, Public File Area O1-F21, 11555 Rockville Pike (First Floor), Rockville, Maryland.

This document, NUREG-1886 [ML073300230], is available at the NRC's Agencywide Document Access

and Management System (ADAMS) Public Electronic Reading Room on the Internet, accessible through the NRC's public Web site at <http://www.nrc.gov>. This Web site provides text and image files of the NRC's public documents. The public can gain entry into ADAMS through the agency's public Web site at <http://www.nrc.gov/reading-rm/adams.html>, under Accession No. ML073300230. The document may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), One White Flint North, 11555 Rockville Pike, Room O1-F21, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference Staff at (800) 397-4209, (301) 415-4737, or by e-mail to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Michele M. Sampson, Office of Nuclear Material Safety and Safeguards, NRC, Washington, DC 20555-0001; telephone: (301) 492-3292; e-mail: Michele.Sampson@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The International Atomic Energy Agency (IAEA) "Regulations for the Safe Transport of Radioactive Material" (TS-R-1) are designed to provide a uniform and adequate level of safety for the transport of radioactive materials. The standards for packaging of radioactive material, the IAEA regulations, TS-R-1, are adopted by member states, providing the basis for each member state's transport package approval. In principle, this "unilateral" approval can be accepted by all other member states, with little or no requirement for additional technical review. However, the U.S. and other member states have routinely performed some form of technical review for Type B(U) and fissile material transport packages.¹

Under the U.S. Department of Transportation (DOT) regulations, 49 Code of Federal Regulations (CFR) part 173.471-473, for a Type B or fissile material package design, a "U.S. Competent Authority Certificate" must be obtained from the DOT prior to

import or export of Type B or fissile material packages. The June 8, 1979, Memorandum of Understanding (MOU; 44 FR 38690, July 2, 1979) describes the roles and responsibilities of both DOT and NRC in jointly regulating the transportation of radioactive material in the U.S. DOT, assisted by NRC as needed, performs a technical review as part of validation for each foreign-approved package design prior to issuance of a U.S. Certificate of Competent Authority.

In practice, the acceptance of approvals for Type B(U) and fissile material packages, without additional package review by affected member states, has remained an elusive goal. Implementation of a separate technical review is influenced by the perspectives that individual member states have concerning risk, safety margins, and because of other differences in engineering standards, documentation, and quality assurance requirements. Progress towards member state acceptance of Type B(U) and fissile materials transportation packages requires a framework in which these different perspectives, as well as the qualification of technical reviewers, can be addressed, resolved, and documented.

The purpose of this NUREG is to provide the framework to achieve United States and Canadian validation of Competent Authority Type B(U) and fissile materials transportation package approvals for export and import without significant additional technical review.

The NUREG was developed by a working group of DOT, NRC, and Canadian Nuclear Safety Commission (CNSC) staff. The NUREG is to be used by applicants in submitting safety analysis reports for the certification of packages and by DOT and NRC reviewers in assessing these reports. The NUREG describes a method that is acceptable to the staffs of the DOT, NRC, and CNSC for complying with the United States regulations in 10 CFR part 71 and 49 CFR part 173, the Canadian Packaging and Transport of Nuclear Substances Regulations, and TS-R-1, upon which the domestic United States and Canadian regulations are based. Where differences in the regulatory requirements exist, guidance is provided in the NUREG to assist the applicant in appropriately addressing the specific regulatory requirement. The

¹ See 10 CFR 71.4 for definitions of Type B(U) and fissile material transport package classifications.

NUREG is not intended as an interpretation of the regulations, and does not have the force or effect of regulations.

The NUREG applies specifically to applications for approval of Type B(U) and fissile material (Type A and Type B) transportation packages for import or export. The NUREG does not apply to approval of special form materials, certain air shipments of Type B packages, low dispersible material, Type C packages, or fissile materials in less than Type A packages. The NUREG does not change the certification requirements for domestic shipment within the United States or Canada.

The CNSC has a companion Regulatory Document, "Joint Canada—United States Guide for Approval of Type B(U) and Fissile Material Transportation Packages" (RD-364) which provides the same guidance to applicants in submitting safety analysis reports to the CNSC for the certification of packages and to CNSC reviewers in assessing these reports, as NUREG-1886. The CNSC document is being published for public comment in Canada.

II. Bi-Lateral Agreement

The United States and Canada, through the working group process, envision a formal process, such as a Memorandum of Agreement, to implement use of NUREG-1886 in the United States and RD-364 in Canada. The protocol for implementation of this formal agreement is expected to detail the process to be followed by the United States and Canada.

The following elements have been identified for implementation:

- Procedures for periodic review of both NUREG-1886 and RD-364 to ensure the documents remain current with regulatory changes.
- NRC and CNSC agreement on minimum qualification of staff assigned to review packages that are part of the bi-lateral agreement.
- Periodic audit by NRC and CNSC of each other's review process.
- Periodic full review by both NRC and CNSC of packages that are part of the bi-lateral agreement.
- Periodic meetings between NRC, DOT, and CNSC staff to discuss technical issues related to package approvals that are part of the bi-lateral agreement.

The formal bi-lateral agreement between NRC, DOT, and CNSC will be made available to the public through a separate notice in the **Federal Register**.

III. Public Participation

The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing NUREG-1886 is available to the NRC staff. The NRC will provide copies of public comments received to the CNSC and DOT. In addition, public comments received by the CNSC on RD-364 will be provided to the NRC and DOT. The NRC will review all public comments, incorporate suggested changes as necessary, and then issue the final NUREG-1886 for use.

Dated at Rockville, Maryland, this 22nd day of May 2008.

For the Nuclear Regulatory Commission.

Edwin Hackett,

Acting Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0189; FRL-8576-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Schuylkill County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as a 2002 base-year inventory for the Schuylkill County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before July 7, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2008-0189 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2008-0097, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2008-0189. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.