



Department of
Environmental
Conservation

6 NYCRR Part 384

New Regulations for Cleanup of Radioactively Contaminated Sites

October 19, 2022

FOR INFORMATIONAL PURPOSES ONLY, NOT A FINAL PROPOSAL

What would this regulation do?

This regulation would set the criteria for cleaning up radioactive contaminants in the environment (that is, outside of buildings).

It should be noted that this regulation will not apply to sites that are regulated by the US Nuclear Regulatory Commission (NRC), the US Department of Energy, or the US Department of Defense.

Sites controlled by these three entities are subject to federal regulations.

Why Is the Department Developing this Regulation?

The Department is required to adopt this regulation because of New York State's agreement with the federal government on regulatory control of radioactive materials. Under this agreement, the State regulates most uses of radioactive materials in place of the US Nuclear Regulatory Commission (NRC).

How Are Radioactive Cleanup Criteria Defined?

The NRC's regulation states that any radioactive contaminants left after a site has been cleaned up must not cause a person to receive a radiation dose greater than 25 millirem per year. The NRC also requires that the remaining radioactive material be reduced to a level that is as low as reasonably achievable (ALARA).



How Are the Dose Limits Applied During a Cleanup?

Radioactive contaminants deliver a radiation dose through many pathways, including direct radiation, inhalation of dust, consumption of food grown in contaminated soil, and drinking contaminated water. The total radiation dose will depend on many factors, but the most important factor is the concentration of radioactive material in the soil.

Therefore, the dose limits are implemented through setting limits on the concentration of radioactive material that can be left in the soil and groundwater.



What Are the Options for the Department's Criteria?

To be compatible with the NRC's rule, the Department must use the same approach as the NRC, and the dose limit cannot be greater than 25 millirem per year. However, the Department could adopt a lower limit.

In addition to the NRC's requirements, the Department is considering adopting a specific provision to protect groundwater, limiting dose from that pathway to 4 mrem per year.

What If the Criteria Cannot be Met?

In rare cases, it may not be reasonable to clean up a site to meet the determined cleanup values. For example, it may require extreme measures or costs, or could cause significant environmental impacts. In those situations, the rule would require that the site be cleaned up to a level that is as low as reasonably achievable (ALARA).

Then, other measures, such as land use restrictions or physical barriers, could be used to prevent people from receiving a radiation dose greater than the limit.



Where Would These Criteria Apply?

These criteria would be applied whenever the Department requires the cleanup of a site contaminated with radioactive material. This could include facilities operated under radioactive

materials licenses issued by the New York State Department of Health or the New York City Department of Health and Mental Hygiene, or facilities permitted by the Department under

Part 380, if their operations had caused environmental contamination.



Where Would These Criteria Apply? (Cont.)

The rule would also apply if the Department were to direct a landowner or other responsible party to clean up a site, whether or not the radioactive materials involved had been under a license.

The criteria would not apply directly to sites being remediated under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

However, this rule would be a relevant and appropriate requirement, which federal agencies must consider in selecting a remedy.



How to Submit Comments

Comments and questions may be submitted by e-mail to this address: Regs.Radiation@dec.ny.gov

Please put “Radiological Cleanup Criteria Part 384” in the subject field of the email.

Comments may also be submitted by US Postal Service mail to this address:

Mr. Thomas Papura

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6 NYCRR Part 381

Updates – Transporters of Low-Level Radioactive Waste

October 19, 2022

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What would this regulation do?

- Update the list of documents incorporated by reference to reflect the most current version of the federal rules incorporated by reference.
- Correct obsolete references to DEC Division names
- Revise regulatory text to conform to Department of State standards for documents incorporated by reference



Why Is the Department Developing this Regulation?

The Department is required to adopt this regulation because of New York State's agreement with the federal government on regulatory control of radioactive materials. Under this agreement, the State regulates most uses of radioactive materials in place of the US Nuclear Regulatory Commission (NRC). As part of this agreement, the state's regulations are required to be compatible with the equivalent federal rule. Without these changes, our regulations are not compatible due to citation of outdated versions of federal rules.

What changes have been made to the Federal Rules being incorporated by reference?

10 CFR Part 71 Packaging and Transportation of Radioactive Material has been updated several times since the 2005 version currently cited in Part 381. Updates that are required to be adopted by DEC include:

- A requirement to provide advance notification to Indian Nation or Tribe officials prior to the shipment of certain licensed radioactive materials across the boundary of an Indian Nation.
- Minor corrections of NRC division names and typographical corrections



Who is subject to the Advance Notice to Native American Tribes Requirement?

Current regulations require notification of local and state government entities regarding transport of certain radioactive materials as identified in 10 CFR 71.97. This update adds the requirement to notify Indian Nation or Tribe officials when the transport of such materials crosses Tribal boundaries.



How to Submit Comments

Comments and questions may be submitted by e-mail to this address: Regs.Radiation@dec.ny.gov

Please put “Transport of Low-Level Radioactive Waste Part 381” in the subject field of the email.

Comments may also be submitted by US Postal Service mail to this address:

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