

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

10 CFR Parts 50 and 70

'98 FEB 20 P2:54

RIN: 3150-AF87

Criticality Accident Requirements; Withdrawal of Direct Final Rule and

OFFICE
OF
REGULATORY
ADMINISTRATION

Revocation of Regulatory Text

AGENCY: Nuclear Regulatory Commission.

DOCKET NUMBER
PROPOSED RULE **PR** 50 + 70
(62FR63825)
(62FR63911)

ACTION: Direct final rule; withdrawal.

SUMMARY: The Nuclear Regulatory Commission is withdrawing a direct final rule that would have amended the Commission's regulations to provide light-water nuclear power reactor licensees with greater flexibility in meeting the requirement that licensees authorized to possess more than a small amount of special nuclear material (SNM) maintain a criticality monitoring system in each area where the material is handled, used, or stored. The NRC is taking this action because it has received significant adverse comments in response to an identical proposed rule which was concurrently published in the *Federal Register*. Because the effective date for the direct final rule has passed, the NRC is removing the regulatory text codified in that action.

February 25, 1998

EFFECTIVE DATE: (~~upon publication in the Federal Register~~)

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Pub. on 2/25/98

SUPPLEMENTARY INFORMATION: On December 3, 1997 (62 FR 63825), the Nuclear Regulatory Commission published in the *Federal Register* a direct final rule amending its regulations to provide persons licensed to construct or operate light-water nuclear power reactors with the option of either meeting the criticality accident requirements of paragraph (a) of 10 CFR 70.24 in handling and storage areas for SNM, or electing to comply with requirements that would be incorporated into 10 CFR Part 50 at § 50.68. The direct final rule was to become effective on February 17, 1998. The NRC also concurrently published an identical proposed rule on December 3, 1997 (62 FR 63911). In these documents, the NRC indicated that if it received significant adverse comments in response to this action, the NRC would withdraw the direct final rule and would consider the comments received as in response to the proposed rule and address these comments in a subsequent final rule. Therefore, the Commission is withdrawing the December 3, 1997, direct final rule. The public comments received will be addressed in a subsequent final rule issued in either a notice of final rulemaking or in a notice of withdrawal of the proposed rule.

Because this notice of withdrawal is being published after the February 17, 1998, effective date for the direct final rule, the regulatory text presented in the December 3, 1997, direct final rule must be removed from the Code of Federal Regulations. Therefore, the provisions added to Part 50 at § 50.68 are removed and the text of § 70.24 (d) is being restored to the text of the paragraph that was in effect before the December 3, 1997, amendment to that paragraph.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C 553, the NRC is adopting the following amendments to 10 CFR Parts 50 and 70.

PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, and 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under

sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

§ 50.68 [Removed]

2. Section 50.68 is removed.

PART 70 - DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. The authority citation for Part 70 continues to read as follows:

AUTHORITY: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835 as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243).

Sections 70.1 (c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(9) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

4. In § 70.24, paragraph (d) is revised to read as follows:

§ 70.24 Criticality accident requirements.

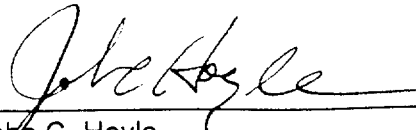
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(d) Any licensee who believes that good cause exists why he should be granted an exemption in whole or in part from the requirements of this section may apply to the

Commission for such exemption. Such application shall specify his reason for the relief requested.

Dated at Rockville, Maryland, this 20th day of February, 1998.

For the Nuclear Regulatory Commission.

A handwritten signature in cursive script, appearing to read "John C. Hoyle", written over a horizontal line.

John C. Hoyle,
Secretary of the Commission.