

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150-AH07

RADIATION EXPOSURE REPORTS: LABELING PERSONAL INFORMATION

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its filing requirements for written event reports submitted to the NRC concerning individuals occupationally overexposed to radiation and radioactive materials. Licensees will be required to clearly label any section of the event report containing personal information “Privacy Act Information: Not for Public Disclosure.” This action is necessary to ensure that personal information filed with the NRC is segregated from the event report and maintained in a separate, non-public document.

EFFECTIVE DATE: The final rule is effective **(insert date 75 days after publication in the Federal Register)**, unless significant adverse comments are received by **(insert date 30 days after publication in the Federal Register)**. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the Federal Register.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, Room O-1F23, 11555 Rockville Pike, Rockville, MD. For more information, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Merri Horn, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, Nuclear Material Safety and Safeguards, U.S.

Nuclear Regulatory Commission, Washington, DC 20555-0001, (301) 415-8126, email mlh1@nrc.gov.

SUPPLEMENTARY INFORMATION:

The NRC requires licensees to file written reports within 30 days after learning of any occupational exposure to radiation or radioactive materials that exceeds the constraints or limits set out in §§ 20.2202 and 20.2203. These records contain personal information that is protected from public disclosure by the Privacy Act of 1974, Public Law 93-579, 5 USC 552a, and the Commission's regulations in 10 CFR Part 9.

Currently, each report is required to be prepared so that personal information such as an individual's name, social security number, and date of birth is contained in a separate and detachable part of the report. However, the regulations do not require that the report be marked in any way to indicate the information should be protected as privacy information. The intent of the separate report was to keep the sensitive personal information out of the publically accessible environment. Documents received by the NRC are placed directly into the Agency-Wide Documents Access and Management System (ADAMS) unless they are marked as sensitive or controlled. In order for the Agency's document control personnel to properly process this section of the report as a non-public document, licensees will be required to clearly label this section with the following notation: "Privacy Act Information: Not for Public Disclosure." This labeling will ensure that personal information filed with exposure event reports will not be accessible by the public through the NRC's document control system, ADAMS.

Procedural Background

Because this amendment involves only a minor amendment to existing regulations and it is not expected to be controversial, the NRC is using the direct final rule process for this rule. The amendments to the rule will become effective on **(insert date 75 days after publication in the Federal Register)**. However, if the NRC receives significant adverse comments on this direct final rule by **(insert 30 days after publication in the Federal Register)**, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this *Federal Register*. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the Federal Register on September 3, 1997 (62 FR 46517), this direct final rule is classified as compatibility "C." Category C means the provisions affect a program element, the essential objectives of which should be adopted by the State to avoid conflicts, duplications, or gaps in the national program. The manner in which the essential objectives are addressed need not be the same as NRC, provided the essential objectives are met. This amendment is not expected to impact existing Agreement States regulations. The content of the event report is not being changed by this rule and each State has its own method for protecting privacy information.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled, "Plain Language in Government Writing" directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading "ADDRESSES" above.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC is adding a labeling requirement to protect privacy information. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

Environmental Impact: Categorical Exclusion

The NRC has determined that this direct final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This direct final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0014.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this regulation. The rule imposes an insignificant regulatory burden on licensees by requiring that privacy information contained in event reports be labeled. The information is already required to be in a separate, detachable section of the event report. The labeling will ensure that personal information filed with exposure event reports will not be inadvertently released to the public through ADAMS. Many licensees already label the privacy information.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is necessary to reflect the nuclear non-proliferation policies of the Executive branch and U.S. Government obligations under nuclear agreements for cooperation. This rule will only affect licensees when filing Radiation Exposure Reports for occupationally overexposed individuals. Affected licensees will be required to label the portion of the report containing personal information to indicate that such information should not be made available to the public. This final rule has a minimal impact on licensee filing procedures and imposes no additional economic burden on affected licensees.

Backfit Analysis

The NRC has determined that the backfit rule as defined in 10 CFR Chapter I does not apply to reporting requirements such as those reporting requirements contained in this final rule. Since this final rule does not involve any provisions that would impose backfits as defined in the backfit rule, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

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. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 20.

PART 20 - STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 20.2203, paragraph (b)(2) is revised to read as follows:

§ 20.2203 Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits.

* * * * *

(b) * * *

(2) Each report filed pursuant to paragraph (a) of this section must include for each occupationally overexposed¹ individual: the name, Social Security account number, and date of

¹With respect to the limit for the embryo/fetus (§ 20.1208), the identifiers should be those of the declared pregnant woman.

birth. The report must be prepared so that this information is stated in a separate and detachable part of the report and must be clearly labeled *Privacy Act Information: Not for Public Disclosure*.

* * * * *

Dated at Rockville, Maryland, this 11th day of March, 2003.

For the Nuclear Regulatory Commission.

/RA/

William D. Travers,
Executive Director for Operations.

birth. The report must be prepared so that this information is stated in a separate and detachable part of the report and must be clearly labeled *Privacy Act Information: Not for Public Disclosure*.

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Dated at Rockville, Maryland, this 11th day of March, 2003.

For the Nuclear Regulatory Commission.

/RA/

William D. Travers,
Executive Director for Operations.

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