

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 52, 60, 61, 63, 70, 71, and 72

[Docket No. PRM-50-107; NRC-2013-0077]

Requirement to Submit Complete and Accurate Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Discontinuation of rulemaking activity; denial of petition for rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is discontinuing a rulemaking activity, "Requirement to Submit Complete and Accurate Information," and denying a petition for rulemaking (PRM), PRM-50-107. This notice informs the public of the NRC's action and describes the rationale for the action. The NRC will no longer track this rulemaking activity or PRM.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], the rulemaking activity is discontinued and PRM-50-107 is denied.

ADDRESSES: Please refer to Docket ID **NRC-2013-0077** when contacting the NRC about the availability of information for this action. You can obtain publicly-available information related to this action by using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0077**. Address questions about NRC dockets to Carol Gallagher, telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **The NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain 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 (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, Availability of Documents.-

- **The NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Meena Khanna, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2150; e-mail: Meena.Khanna@nrc.gov

Commented [LR1]: Staff should update contact information as appropriate.

SUPPLEMENTARY INFORMATION:

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I. Discussion

The NRC received a PRM dated April 15, 2013 (ADAMS Accession No. ML13113A443), from Mr. James Lieberman (the petitioner), a regulatory and nuclear safety consultant. The petitioner requested that the NRC revise its regulations relating to nuclear reactors at §§ 50.1, 50.9, 52.0, and 52.6 of Title 10 of the *Code of Federal Regulations* (10 CFR) to expand its “regulatory framework to make it a legal obligation for those non-licensees who seek NRC regulatory approvals be held to the same legal standards for the submittal of complete and accurate information as would a licensee or an applicant for a license.”

The PRM was noticed in the *Federal Register* for public comment on June 10, 2013 (78 FR 34604). The NRC received two comments, both supporting the petition.

On September 16, 2013, the petitioner amended the PRM (ADAMS Accession No. ML13261A190) to expand its scope to include the regulatory framework for radioactive materials, waste disposal, transportation, and spent fuel storage (10 CFR parts 30, 40, 60, 61, 63, 70, 71, and 72). In the amended petition, the petitioner also requested that the “scope” section for each of the parts be revised to add language to highlight that any person seeking or obtaining NRC approval for a regulated activity would be subject to enforcement action for violation of the completeness and accuracy provision of that part. The applicable sections pertaining to this issue include §§ 30.1, 40.2, 50.1, 52.0, 60.1, 61.1, 63.1, 70.2, 71.0, and 72.2. The amended PRM was noticed in the *Federal Register* for public comment on

January 21, 2014 (79 FR 3328). The NRC received one additional comment in support of the amended petition.

The petitioner stated that non-licensees (e.g., vendors and other contractors) who seek NRC regulatory approvals “should be held to the same legal standards for the submittal of complete and accurate information as would a licensee or an applicant for license.” When the Commission promulgated the “Completeness and Accuracy of Information” rule on December 31, 1987 (52 FR 49362) (the 1987 rule), neither the rule language nor the Statements of Consideration (SOCs) discussed non-licensees submitting information to the NRC for regulatory approvals. The 1987 rule included nearly identical “Completeness and Accuracy of Information” requirements in 10 CFR parts 30, 40, 50, 60, 61, 70, 71, and 72. When the Commission added 10 CFR parts 52 and 63 to its regulations, it added “Completeness and Accuracy of Information” requirements to these parts (72 FR 49521; August 28, 2007, and 66 FR 55732; November 2, 2001, respectively). The petitioner’s specific concern is that NRC regulations do not require all persons who seek NRC approvals to provide the NRC with complete and accurate information in all material respects.

On March 17, 2015 (80 FR 13794), the NRC informed the public that the issues raised in the amended PRM have merit and are appropriate for consideration in the rulemaking process. In addition, the PRM docket, PRM-50-107, was closed. However, the timing for conducting a rulemaking on any issue is dependent on the immediacy of the safety, environmental, or security concerns that have been raised; the rule’s priority compared to other rulemakings; and the availability of funding. Using the NRC’s Common Prioritization of Rulemaking methodology (ADAMS Accession No. ML15086A074), the NRC prioritized this rulemaking activity as low priority. The petitioner’s February 3, 2017 letter (ADAMS Accession No. ML17034A409)

identified that this rulemaking had been assigned a medium priority; however, the NRC has confirmed that references to this rulemaking as medium priority in certain locations were errors, due to staff oversight, and that it was prioritized as low priority using the CPR methodology.

The NRC has not identified an immediate safety, environmental, or security concern, and the petitioner did not demonstrate how a lack of requirements in this area would contribute to such a concern. In contrast to the repeated past performance problems in the areas of design, design control, fabrication and quality control with holders of, and applicants for, a Certificate of Compliance under part 72 (i.e., for non-licensed spent fuel storage cask certificate holders that were addressed in a final rule, “Expand Applicability of Part 72 to Holders of, and Applicants for, Certificates of Compliance” (64 FR 56114; October 15, 1999), the NRC identified only one other example where an entity other than an NRC licensee or applicant submitted incomplete or inaccurate information that resulted in a significant safety issue. That instance involved the submission of a reactor topical report on a fire retardant product that was based on falsified test data. While the case took several years to conclude, the NRC was able to exercise its current authority under the Atomic Energy Act (AEA) to resolve the safety issue and ultimately sanction the vendor.

The AEA stipulates that licensees or applicants are ultimately responsible for safety. The AEA includes the authority to revoke licenses for material false statements (AEA section 186) and to require written statements from applicants for licenses and licensees (AEA section 182). As described in the 1987 rule, § 50.9 codifies in a more explicit and accessible way requirements already existing under the authority of the AEA (52 FR 49372). The responsibility for safety remains with the licensee or applicant for a license that relies on material provided by a non-licensee. Furthermore, the requirements in 10 CFR part 21,

"Reporting of Defects and Noncompliance," apply to subjects such as safety-related analysis associated with component hardware, which may be addressed in the type of topical report referenced by the petitioner. The NRC, as well as licensees and applicants, have procedures in place to ensure that substantial safety hazards identified under 10 CFR part 21 are identified and corrected. Based on these considerations, the NRC finds that the subject rulemaking would likely have minimal practical benefit to the safety or security of NRC-regulated activities.

~~In addition, given the low priority of this rulemaking consistent with the Common Prioritization of Rulemaking, the NRC does not expect to be able to fund such a rulemaking for the foreseeable future.~~

II. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated. For information on accessing ADAMS, see the ADDRESSES section of this document.

Date	Document	ADAMS Accession Number/ <i>Federal Register</i> Citation/Link
April 15, 2013	Letter from J. Lieberman, "Completeness and Accuracy of Information," PRM-50-107 (Original Petition)	ML13113A443
June 10, 2013	<i>Federal Register</i> notice, "Submitting Complete and Accurate Information"	78 FR 34604 https://www.gpo.gov/fdsys/pkg/FR-2013-06-10/pdf/2013-13684.pdf

September 16, 2013	Letter from J. Lieberman, "Completeness and Accuracy of Information," PRM-50-107 (Amended Petition)	ML13261A190
January 21, 2014	<i>Federal Register</i> notice, "Submitting Complete and Accurate Information"	79 FR 3328 https://www.gpo.gov/fdsys/pkg/FR-2014-01-21/pdf/2014-01035.pdf
March 17, 2015	<i>Federal Register</i> notice, "Requirement to Submit Complete and Accurate Information"	80 FR 13794 https://www.gpo.gov/fdsys/pkg/FR-2015-03-17/pdf/2015-06107.pdf
June 23, 2015	Common Prioritization of Rulemaking Methodology	ML15086A074
February 3, 2017	Letter from J. Lieberman "PRM 50-217, Rulemaking Petition To Amend the NRC Regulations for Completeness and Accuracy of Information – 10 CFR 30.9, 40.9, 50.9, 52.6, 60.10, 61.9a, 63.10, 70.9, 71.7, and 72.11"	ML17034A409

III. Conclusion

The NRC is no longer pursuing the "Requirement to Submit Complete and Accurate Information" rulemaking and is denying PRM-50-107 for the reasons discussed in this document. In the next edition of the Unified Agenda, the NRC will update the entry for this rulemaking activity with reference to this document to indicate that the rulemaking is no longer being pursued. These rulemaking activities will appear in the completed section of that edition of

the Unified Agenda but will not appear in future editions. If the NRC decides to pursue a similar or related rulemaking activity in the future, it will inform the public through a new rulemaking entry in the Unified Agenda.

Dated at Rockville, Maryland, this day of , 201~~X~~.

For the Nuclear Regulatory Commission.

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