

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 34, 36, and 39**

**[NRC-2019-0031]**

**RIN 3150-AK29**

**Individual Monitoring Devices**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to authorize the use of modern individual monitoring devices in industrial radiographic, irradiator, and well logging operations. The proposed amendments would align personnel dosimetry requirements in these areas with the requirements for all other NRC licensees. This proposed rule addresses an issue raised in a petition for rulemaking and would affect NRC and Agreement State licensees. The NRC also is issuing supplemental guidance for use and comment.

**DATES:** Submit comments by April 17, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0031. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Anthony McMurtray, telephone: 301-415-2746; e-mail: [Anthony.McMurtray@nrc.gov](mailto:Anthony.McMurtray@nrc.gov); or Edward Lohr, telephone: 301-415-0253; e-mail: [Edward.Lohr@nrc.gov](mailto:Edward.Lohr@nrc.gov). Both are staff of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

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## **I. Obtaining Information and Submitting Comments**

### **A. Obtaining Information**

Please refer to Docket ID NRC-2019-0031 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0031.
- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### **B. Submitting Comments**

Please include Docket ID NRC-2019-0031 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## **II. Rulemaking Procedure**

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the *Federal Register*. The direct final rule will become effective on June 16, 2020. However, if the NRC receives significant adverse comments by April 17, 2020, then the NRC will publish a document that withdraws the direct final rule and the associated supplemental guidance. If the direct final rule is withdrawn, the NRC will address the comments if there is a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

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 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.

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 NRC to make a change (other than editorial) to the rule.

For procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this issue of the *Federal Register*.

### **III. Background**

The regulations in part 34 of title 10 of the *Code of Federal Regulations* (10 CFR), “Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations”; 10 CFR part 36, “Licenses and Radiation Safety Requirements for Irradiators”; and 10 CFR part 39, “Licenses and Radiation Safety Requirements for Well Logging,” require the use of personnel dosimetry that is

processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. These regulations restrict the types of personnel dosimeters that can be used and prohibit the use of newer dosimetry technologies that do not require processing by an accredited NVLAP facility.

On July 14, 2016, the NRC received a petition for rulemaking (PRM) from the American Society for Nondestructive Testing and the Nondestructive Testing Management Association (the petitioners) (ADAMS Accession No. ML16228A045). The petition was docketed by the NRC on August 12, 2016, and assigned Docket No. PRM-34-7. The NRC published a notice of docketing of PRM-34-7 in the *Federal Register* (81 FR 78732) on November 9, 2016. The petitioners requested that the NRC amend its regulations and associated guidance to authorize the use of improved individual monitoring devices for industrial radiographic personnel. Specifically, the petitioners requested that the NRC amend its regulations to authorize the use of digital output personnel dosimeters to satisfy the personnel dosimetry requirements in § 34.47(a). The petitioners interchangeably used the terms “improved individual monitoring devices,” “electronic personnel monitoring dosimeters,” “electronic dosimeters,” and “digital personnel dosimeters” to describe digital output personnel dosimetry. In this proposed rule, the NRC uses the term “digital output personnel dosimetry” in place of these terms. A digital output personnel dosimeter is a specific type of personnel dosimetry that currently cannot be used to meet the requirements in 10 CFR parts 34, 36, and 39 to demonstrate compliance with the occupational dose limits in § 20.1201. The NRC published a notice of docketing of PRM-34-7 in the *Federal Register* (81 FR 78732) on November 9, 2016.

On February 11, 2019, the NRC published a document in the *Federal Register* (84 FR 3116) informing the public that it would consider PRM-34-7 in the rulemaking process. In the *Federal Register* notice, the NRC accepted the petitioners’ request that

the NRC amend its regulations to authorize the use of digital output personnel dosimeters for industrial radiographic personnel and expanded the scope of the rulemaking to include the use of digital output personnel dosimeters in irradiator and well logging operations.

#### **IV. Plain Writing**

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

#### **V. Paperwork Reduction Act**

This proposed rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing collections of information were approved by the Office of Management and Budget, approval numbers 3150-0007, 3150-0130, and 3150-0158.

#### **Public Protection Notification**

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

## **List of Subjects**

### **10 CFR Part 34**

Criminal penalties, Incorporation by reference, Manpower training programs, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures, X-rays.

### **10 CFR Part 36**

Byproduct material, Criminal penalties, Nuclear energy, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

### **10 CFR Part 39**

Byproduct material, Criminal penalties, Labeling, Nuclear energy, Nuclear material, Occupational safety and health, Oil and gas exploration - well logging, Penalties, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

Dated at Rockville, Maryland, this 3rd day of March, 2020.

For the Nuclear Regulatory Commission.

**/RA/**

Margaret M. Doane,  
Executive Director for Operations.