

MAY 20 1992

Mr. J. Charles McKibben, Chairman
National Organization of Test, Research
and Training Reactors
University of Missouri-Columbia
Columbia, Missouri 65211

~~#44~~ PDR
~~#45~~ AE21-2
#43

Dear Mr. McKibben:

The Commission has approved publication of a proposed rule to extend the implementation date for 10 CFR Part 20 in response to your request. The proposed rule will solicit public comments on delaying the implementation date from January 1, 1993 to January 1, 1994, and should appear in the Federal Register by the end of May 1992.

We would appreciate any comments you may have on this proposed rulemaking.

Sincerely,

ORIGINAL SIGNED BY

Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

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Proposed Rules

Federal Register

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19 and 20

RIN 3150-AE21

Standards for Protection Against Radiation; Extension of Implementation Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to extend the implementation date for its revised standards for protection against radiation (10 CFR 20.1001-20.2401 and the accompanying appendices) and make a conforming change to part 19. The proposed rule would extend the date by which NRC licensees are required to implement the revised standards for protection against radiation to January 1, 1994. The proposed rule would provide licensees additional time to examine and implement the regulatory guidance which is being developed to support the rule. It would also establish a concurrent implementation date for NRC licensees and Agreement State licensees by eliminating the 1-year period during which Agreement States could continue to enforce the existing part 20 while the NRC would be enforcing the revised standards.

DATES: Comment period expires June 18, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays.

Copies of the regulatory analysis, the environmental assessment and finding of no significant impact, the supporting statement submitted to OMB, and comments received may be examined at the NRC Public Document Room at 2120 L Street, NW, (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Donald A. Cool, Chief, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 492-3785.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1990, the Commission approved the final revision of 10 CFR part 20, "Standards for Protection Against Radiation," which incorporated the recommendations of the International Commission on Radiological Protection (ICRP) issued in 1977 and implemented the recommendations contained in the Guidance to Federal Agencies for Occupational Exposure signed by the President in 1987. With the approval of the final rule, the Commission specified its desire to have the rule become effective 30 days following publication in the *Federal Register* with a provision that licensees would be permitted until January 1, 1993, to implement the revision. The Commission also stated that Agreement States should require that all Agreement State licensees comply with compatible State regulations on or before January 1, 1994, with early implementation encouraged.

When the Commission approved the revision to 10 CFR part 20, the Commission and the NRC staff expected that the revised standards for protection against radiation would be published in the *Federal Register* in early January 1991, giving licensees 2 full years to meet the required implementation date. The Commission also expected that the related draft regulatory guides would be published for public comment early in 1991 and published in final form by December 31, 1991. Unfortunately, difficulties arose with the publication of the final rule because of the need to satisfy the legal and procedural requirements necessary to accommodate concurrent enforcement of both the existing requirements contained in 10

CFR part 20, as well as the new standards for protection against radiation contained in § 20.1001-20.2401. Because of these problems and the need to revise the numbering system and implementation sections accordingly, the final rule was not published until May 21, 1991 (56 FR 23360).

Consequently, there was a corresponding delay in the development and publication of the regulatory guides.

On October 16, 1991, the Nuclear Management and Resources Council (NUMARC) requested that the Commission extend the date for implementation of the revised 10 CFR part 20 from January 1, 1993, to January 1, 1994. NUMARC's basis for this request was that the regulatory guides associated with the rulemaking had not been completed as indicated at the time the final rule was published. On October 24, 1991, and November 22, 1991, similar requests were filed by the Yankee Atomic Electric Company (YAEC) and the National Organization of Test, Research and Training Reactors (TRTR). In a letter dated December 12, 1991, NUMARC provided additional information regarding its position on the availability and importance of certain regulatory guidance documents to the implementation process of the final rule.

The Commission's discussion of the need for regulatory guidance, published as part of the Statement of Considerations, Section IV, "Need for Additional Regulatory Guides" in the final rule, recognized that the incorporation of many new concepts into part 20 would require additional guidance and explanation of their application to practical problems in radiation protection. The discussion also included a listing of some of the guides that were being developed or revised, although no measure of importance or priority was provided with the listing. The December 12, 1991, letter stated NUMARC's position on the availability and importance of certain regulatory guides to the implementation process for the revision of 10 CFR part 20.

In response to the additional information provided by NUMARC and in consideration of the topics to be addressed, the NRC has evaluated and prioritized the regulatory guides which are currently under development and determined which guides would be especially useful for implementation of the revision. The NRC believes that a

guide would be especially useful if it provides practical applications for any new concepts which were not previously contained in the regulations, or where a significant change in approach is needed by licensees in order to implement the requirements of the new standards. Regulatory guides, covering new requirements or new concepts in the revised standards for protection against radiation, have been made available to the public in draft form and after consideration of public comments, will be issued in final form.

It is the Commission's goal to have a firm and consistent basis for enforcement at the time the final rule is fully implemented. In support of this goal, the Commission has considered and is proposing, granting a delay in the published January 1, 1993, implementation date, as requested by NUMARC, TRTR, and YAEC based on the following considerations. First, a delay in the implementation date would provide licensees with the opportunity to further study the rule and regulatory guides and, therefore, could result in a more orderly and efficient implementation. A delay would also provide additional time to obtain adequate resources for implementation actions and contracted assistance. Second, extending the implementation date for NRC licensees 1 year to January 1, 1994, would provide a uniform, concurrent implementation date for NRC licensees and Agreement States, thereby eliminating the period during which Agreement States could still be enforcing the existing part 20 while NRC would be requiring adherence to the revised part 20.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2): An administrative action that will not result in any hardship. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements, including requirements contained in §§ 20.1001–20.2401, published on May 21, 1991, were approved by the Office of Management and Budget approval number 3150-0014.

Regulatory Analysis

The proposed amendment is administrative and will not have a significant impact; therefore, the Commission has not prepared a regulatory analysis on this proposed regulation. The final regulatory analysis for the final rule that was published on May 1, 1991, examined the costs and benefits of the alternative considered by the Commission and is available for inspection in the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(B), the Commission certifies that this is an administrative action that will not have a significant impact upon a substantive number of small entities. This action will apply to all NRC licensees. The proposed rule affects approximately 7,500 licensees, approximately one-quarter of which are classified as small entities under 10 CFR part 20.

Note: Agreement States, which implement comparable regulations under Section 274 of the Atomic Energy Act of 1954, as amended, have about 16,000 licensees of which a comparable fraction are assumed to be small entities.

The types of small entities that would be affected by this proposed rule include physicians, small hospitals, small laboratories, industrial applications in small industries, radiographers, and well loggers.

This proposed administrative action, will result in no increase in the burden on NRC licensees. Rather, it will provide licensees an additional year to implement the revisions to 10 CFR part 20. It will also reduce the Commission's administrative burden by providing a concurrent implementation date for all licensees and by facilitating publication of regulatory guidance.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to the proposed rule and, therefore, that a backfit analysis is not required for this proposed rule. This amendment is administrative in nature and does not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection,

Reporting and recordkeeping requirements, and Sex discrimination.

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, Special nuclear material, Source material, Waste treatment and disposal.

For 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 proposing to adopt the following amendments to 10 CFR parts 19 and 20.

PART 19—NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

1. The authority citation for part 19 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 68 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

2. In § 19.13, paragraph (b) is revised to read as follows:

§ 19.13 Notifications and reports to individuals.

(b) Each licensee shall advise each worker annually of the worker's dose as shown in records maintained by the licensee pursuant to part 20 (§ 20.401 and § 20.601 or, for licensees implementing the provisions of §§ 20.1001–20.2401, § 20.2106. Prior to January 1, 1994, licensees operating under §§ 20.1–20.601 are required to provide this information only upon request of the worker.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

3. 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 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 68 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 20.408 also issued under secs. 135, 141, Pub. L. 97–425, 90 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For the purposes of sec. 233, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 20.101, 20.102, 20.103(a), (b), and (f), 20.104(a) and (b), 20.105(b), 20.106(a), 20.201, 20.202(a), 20.205, 20.207, 20.301, 20.303, 20.304, 20.305, 20.1102,

20.1201-20.1204, 20.1206, 20.1207, 20.1208, 20.1301, 20.1302, 20.1501, 20.1502, 20.1601(a) and (d), 20.1602, 20.1603, 20.1701, 20.1704, 20.1801, 20.1802, 20.1901(a), 20.1902, 20.1904, 20.1906, 20.2001, 20.2002, 20.2003, 20.2004, 20.2005(b) and (c), 20.2006, 20.2101-20.2110, 20.2201-20.2206, and 20.2301 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 20.2106(d) is issued under the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a; and §§ 20.102, 20.103(e), 20.401-20.407, 20.408(b), 20.409, 20.1102(a) (2) and (4), 20.1204(c), 20.1206(g) and (h), 20.1904(c)(4), 20.1905(c) and (d), 20.2005(c), 20.2006(b)-(d), 20.2105-20.2108, and 20.2201-20.2207 are issued under sec. 1610, 68 Stat. 950, as amended (42 U.S.C. 2201(e)).

4. In § 20.1008, paragraph (a) is revised to read as follows:

§ 20.1008 Implementation.

(a) Licensees shall implement the provisions of §§ 20.1001-20.2401 on or before January 1, 1994. If a licensee chooses to implement the provisions of §§ 20.1001-20.2401 prior to January 1, 1994, the licensee shall implement all provisions of these sections not otherwise exempted by paragraph (d) of this section, and shall provide written notification to either the Director of the Office of Nuclear Materials Safety and Safeguards or the Director of the Office of Nuclear Reactor Regulation, as appropriate, that the licensee is adopting early implementation of §§ 20.1001-20.2401 and associated appendices. Until January 1, 1994, or until the licensee notifies the Commission of early implementation, compliance will be required with §§ 20.1-20.601 of this part.

Dated at Rockville, Maryland, this 13th day of May 1992.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92-11712 Filed 5-18-92; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 30, 35, 40, 50, 51, 70, and 72

Rulemaking Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) has planned a public meeting with representatives of the Agreement States, the Non-Agreement States, and the licensed community to discuss the development of guidelines for preparing regulatory analyses, notification of incidents/accidents, financial assurance requirements for low-level radioactive waste sites,

independent power producers, and the petition on a 40-mile zone. Also to be discussed are: (1) The status of the radiopharmaceutical petition from the American College of Nuclear Physicians (PRM-35-9); and the Society of Nuclear Medicine; (2) the reporting of defects and non-compliance under 10 CFR part 21; (3) a status report on the pregnancy and nursing patient issue. NRC is considering publishing proposed rules covering these topics in the near future.

DATES: The meeting will be held on Wednesday afternoon, May 20, 1992. The meeting will begin at 3 p.m. and end at 5 p.m.

ADDRESSES: The meeting will be held at the Clarion Plaza Hotel, 9700 International Drive, Orlando, Florida 32819-8114 (phone: 407-352-9700). The meeting room location will be posted in the hotel lobby.

FOR FURTHER INFORMATION CONTACT:

Vandy L. Miller, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (telephone: 301-504-2650); or John Telford, Office of Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (telephone: 301-492-3796).

SUPPLEMENTARY INFORMATION: The NRC is considering a revision of its guidelines for preparing regulatory analysis. The need for this revision became apparent through lessons learned from experience, the implementation of safety goals, and industry and government reports on regulatory impact.

The Principle Revisions Include NRC Policy On:

(1) The definition of regulatory actions requiring regulatory analyses;

(2) The treatment of uncertainties and use of sensitive analysis; and (3) the monetary value of a Person-Rem averted. Revision of the guidelines is underway. Proposed guidelines will be published for public comments by Mid-Fiscal Year 1992.

The notification of incidents/accidents is a proposed revision to 10 CFR part 72. This revision was proposed when it became evident that there are no clear requirements for reporting certain significant events (except for criticality). 10 CFR part 72 is inconsistent with parts 30, 40, and 70, which were recently amended to better describe the reportable events having significant implications for public health and safety. Public comments also suggested the need for a revision of 10 CFR part 72. The staff is planning to amend 10 CFR part 72 with language that is similar to that used in amending parts 30, 40, and 70. The proposed rule

for public comment is expected by December 1992.

Financial Assurance Requirements for Low-Level Radioactive Waste Sites (10 CFR part 61). This initiative is being undertaken because part 61 presently lacks financial assurance requirements for post-closure maintenance and monitoring of Low-Level Radioactive Waste Disposal Sites. The Nuclear Waste Policy Act of 1982 gives NRC authority to establish these requirements. Amendments to part 61 would ensure that Low-level Radioactive Waste Disposal Site licensees make adequate financial arrangements for long-term maintenance and monitoring. A proposed rule for public comment is expected by the beginning of 1993.

The NRC was petitioned by Public Citizen to promulgate a rule concerning the licensing of Independent Power Producers and to include specific criteria for their financial qualifications (PRM-50-54). NRC published the petition on March 12, 1990; we received 17 comments—13 against and 4 in favor. Among those favoring this rulemaking were 2 States and 2 public citizen groups. Neither the petitioner nor the public supporting the petition could identify areas where the regulations were deficient. The staff believes that the existing regulations are sufficient to accommodate an Independent Power Producer should such an application be received. The staff will recommend denial of the petition. The schedule for completing this action is June 15, 1992.

The petition on a 40-mile zone from major population centers for reactor siting criteria was submitted by Free Environment, Inc. (PRM-50-20). The NRC published the petition on May 19, 1977, and received three comments—all opposed to the petition. The staff believes that this would unnecessarily restrict NRC siting policies with no substantial increase in protecting the public health and safety. In a parallel effort, the NRC is revising siting criteria to reflect advancements in Earth Sciences and Earthquake Emergency. The staff is planning to either deny the petition or subsume it in the ongoing effort.

Enhanced Participatory Rulemaking for Residual Radioactivity Criteria will be discussed (10 CFR parts 30, 40, and 70).

This meeting will also cover the status of the following ongoing items:

- (1) Radiation exposure to pregnant and nursing patients.
- (2) The radiopharmaceutical petition.
- (3) Reporting defects and noncompliance under 10 CFR Part