

AF43-2

PDR (5)

From: Mark F. Haisfield (MFH)  
To: MLA  
Date: Thursday, July 27, 1995 1:18 pm  
Subject: RULEMAKING PLAN-PARTS 2 & 51 -Forwarded

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## Rulemaking Plan

### Minor Corrections to Reflect Enforcement Changes

#### Regulatory Issue

Two minor changes are needed: the first would remove the requirement for licensee response to a Notice of Violation in cases where the staff believes the licensee has already adequately addressed the issue on the docket, and second, to remove all references to 10 CFR Part 2, Appendix C since this appendix (General Statement of Policy and Procedures for NRC Enforcement Actions) has been removed from the CFR.

#### How the Regulatory Problem Will be Addressed By Rulemaking

1. 10 CFR 2.201(a) would be modified by providing the staff with discretion regarding responses to Notices of Violation.

2. 10 CFR 2.8(b), "Information collection requirements: OMB approval" and 10 CFR 51.10(d), "Purpose and scope of subpart; application of regulations of Council on Environmental Quality" make reference to the now removed Appendix C to Part 2. These references will be removed from the CFR.

OMB has approved the information collection requirements of the NRC Enforcement Policy. This approval is required whether the collection requirement is in the CFR or not. Therefore, removing the CFR reference noting the approval is an administrative change. Section 51.10(d) notes that administrative or judicial civil or criminal enforcement actions or proceedings are not subject to NEPA. The section further mentions examples of the type of actions included, and then states "...any other matters covered by Appendix C..." Therefore, removing the CFR reference would have no impact and is an administrative change.

#### Assessment of Likely Impacts on Licensees

The first change should provide a small burden reduction to licensees since requests for redundant information will no longer be issued.

The administrative changes to remove CFR references are administrative in nature and will have no impact on licensees.

#### Assessment of Cost Effectiveness

Only minimal NRC resources will be needed to make these changes.

#### OGC Legal Analysis

These are minor and administrative changes. OGC has no legal objection to the recommended changes.

#### Agreement State Implementation Problems

No known Agreement State problems exist.

#### Supporting Documents

This rulemaking will require a simple Regulatory Impact Analysis noting that the changes are minor or administrative. A slight burden reduction may occur as a result of allowing staff discretion in not requiring followup documents. No backfit analysis or OMB Paperwork analysis will be needed. No Environmental Assessment will be needed since these changes are categorical exclusions under 10 CFR 51.22(c)(1) and (2).

#### Resources Needed

.025 FTE  
No contractor support dollars

#### Lead Office Staff and Staff From Supporting Offices

Project Manager: <sup>M. L. Allen</sup> Mark Haisfield, RES  
User office cognizant staff: Geoffrey Cant, OE  
OGC cognizant staff: Stephen Lewis

#### Steering Group/Working Group

No steering or working group will be used on this rulemaking.

#### Enhanced Public Participation

This rulemaking will use Electronic Bulletin Boards, as appropriate, to enhance input from the public.

#### EDO or Commission Issuance

It is recommended that the EDO issue the proposed and final rule as directed by SECY on June 16, 1995. This action does not constitute a significant question of policy, and falls within the EDO's authority. If a significant issue is raised during the public comment period, a SECY Paper could be prepared for the final rule.

Schedule

Approval by the EDO of the Program Plan to initiate rulemaking

Proposed rulemaking package for Office concurrence

Proposed rulemaking package to the EDO

Proposed rule published (45 day comment period)

Final rule published

*Sept.*  
August 1995

*Sept*  
October 1995

November 1995

December 1995

March 1996

*Direct final*  
G:PTS251-1.GDC

*Adverse public comment*