

**Federal Register.** After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of Nebraska from Class A to Class Free will promote economic growth by reducing certain testing and other requirements governing the interstate movement of cattle from the State. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in Nebraska, as well as buyers and importers of cattle from the State.

There are an estimated 24,000 cattle herds in Nebraska that would be affected by this rule. Ninety-eight percent of these are owned by small entities. Test-eligible cattle offered for sale interstate from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. If such testing were distributed equally among all herds affected by this rule, Class Free status would save approximately \$4.60 per herd.

Therefore, we believe that changing the brucellosis status of Nebraska would not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### **Executive Order 12778**

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

#### **List of Subjects in 9 CFR Part 78**

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

#### **PART 78—BRUCELLOSIS**

1. The authority citation for part 78 continues to read as follows:

**Authority:** 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

#### **§ 78.41 [Amended]**

2. In § 78.41, paragraph (a) is amended by adding “Nebraska,” immediately after “Montana.”.

3. In § 78.41, paragraph (b) is amended by removing “Nebraska.”.

Done in Washington, DC, this 25th day of May 1995.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95–13365 Filed 5–30–95; 8:45 am]

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#### **NUCLEAR REGULATORY COMMISSION**

#### **10 CFR Part 34**

#### **RIN 3150–AF28**

#### **Performance Requirements for Radiography Equipment**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending the regulations pertaining to performance requirements for radiography equipment. The amended provision permits a licensee to use an alternate value of torque for the performance

testing criteria. The specified torque test for the drive cable that is currently in the regulations is not practical to meet, given the design of radiographic equipment. Further, the amendment allows for the use of engineering analysis to demonstrate that a modest change in an already approved design is acceptable without the need to perform prototype tests. The amendment is necessary to relieve licensees from compliance with an impractical and unnecessary test criterion.

**EFFECTIVE DATE:** June 30, 1995.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas Rich or J. Bruce Carrico, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7893 or (301) 415–7826.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On January 10, 1990 (55 FR 843) the U.S. Nuclear Regulatory Commission published a revision to 10 CFR 34.20. This regulation required that significant safety improvements be made to radiography equipment. Some of these are stated explicitly in the regulation and some are required through an incorporation by reference of American National Standards Institute N432–1980 (ANSI–N432). All newly manufactured radiographic exposure devices and associated equipment acquired by NRC licensees after January 10, 1992, must meet the requirements specified in 10 CFR 34.20, including the provisions of ANSI–N432. All equipment in use after January 10, 1996, must meet these requirements. Vendors of source assemblies, associated equipment, and radiography exposure devices have registered their designs with the NRC or an Agreement State. This process allows both the user and regulatory agency to determine if the equipment meets the applicable safety requirements. Two vendors are located in Agreement States and three are under NRC jurisdiction.

It has come to the attention of the NRC staff that one of the test criteria specified in section 8.9.2(c) of ANSI–N432 is not practical and cannot be implemented. This test criterion is also not needed for demonstration of safety, given the current design and use of radiography equipment. The test in question is a prototype endurance test of the entire radiography system and, in particular, is intended to ensure the integrity of the source assembly for 20,000 operating cycles. The tests have been performed for the specified number of cycles and at the proper rotational speed, but not at the value of

torque specified in ANSI-N432. The specific torque translates to approximately 1345 newtons (300 pounds-force) tensile/compressive load on the teleflex cable. It is apparently not possible to actually test at the torque values specified in the ANSI standard.

The torque requirement specified in the ANSI test is not a reasonable standard. First, it exceeds by a considerable amount the torque that a human can exert on the radiography system while cranking the source in and out by hand. Second, it would require that the drive cable (Type 187 teleflex cable used in radiography cameras for the past decade) be operated beyond the working load recommended by the supplier of that component. The recommended working load for the standard cable for 10,000 cycles is less than 583 newtons (130 pounds-force). For 20,000 cycles, which the ANSI endurance test specifies, the working load would be lower.

The design of the drive cable system in most radiography cameras has been unchanged for more than a decade. The NRC staff is not aware of any cable failures as a result of fatigue. Cable failures of this type would be clearly visible to the radiographer and 10 CFR 34.30 requires reporting to NRC. Based on the good operating experience with the standard cable and the fact that an individual is highly unlikely to generate 1345 newtons of force continuously on the cable, the NRC staff believes that testing equipment to the high torque requirement of ANSI-N432 is not needed to ensure system safety.

The NRC staff requested the American National Standards Institute Committee N43, the organization responsible for development of the standard, to clarify the basis for the test criterion. The committee's response indicates that the requirement was adopted from an International Standards Organization standard, that it was not aware of the severity of the requirement, and that it was not aware of any manufacturer that has tested equipment to this requirement. Based on further discussion with the N43's working group subcommittee chairman, the NRC staff understands that the working group intends to revise the standard to incorporate a more realistic torque requirement for the endurance test. However, considering the approval and publication process, a revised standard would not be issued for at least 18 months. At that time the NRC staff will evaluate the revised ANSI standard and consider revising its regulations, if necessary and appropriate for maintaining public safety, when radiography equipment is used.

### **The Amendment**

Section 34.20 is being amended, first, by inserting a new sentence in paragraph (a) that will permit an applicant or licensee to submit an engineering analysis to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. This addition codifies a long-standing staff practice in evaluating radiography equipment. For example, an engineering analysis can demonstrate that a modest change in design is acceptable without repeating a prototype test.

Second, because of the flaw in the ANSI standard criteria, the Commission is amending its regulation in 10 CFR 34.20 to eliminate the impractical torque test. In its place, a radiography exposure device and associated systems will be considered to be in compliance with the performance requirements if the prototype equipment was tested using a value of a torque representative of the torque that an individual using the radiography equipment can realistically exert, provided the exposure device and associated equipment are in compliance with all other criteria in the referenced ANSI standard. To accomplish this objective, a new paragraph (f) is being added to 10 CFR 34.20, to specify that compliance with the ANSI-N432-1980 torque value for the endurance test is not required, and that use of a realistic torque value will satisfy the performance requirement. Furthermore, all radiography equipment currently shown and sold by vendors meeting the current part 34 requirements, will meet the revised § 34.20. These vendors have previously provided test results or engineering analysis to either the Agreement State or NRC to demonstrate the products meet § 34.20. The revision imposes a practical performance requirement that is consistent with industry practice while meeting NRC's objective to provide radiographers with safe equipment. Therefore, the filing of additional information with the Commission to demonstrate compliance with the revised § 34.20 requirement is not necessary.

The Commission finds that public comment on this rule is unnecessary because the purpose of the rule is to remove from the regulations an impractical requirement and to stipulate in its stead a practical standard that will permit continued use of a specific component, the drive cable, of industrial radiography equipment long in use without violating the Commission's regulation. The rule

change preserves the status quo for the particular component.

### **Compatibility of Agreement State Regulations**

Section 34.20 is currently designated as a Division II Matter of Compatibility for Agreement State regulations. The revisions addressed in this rule correct a flaw in the regulations. The rule does not affect the current compatibility designations and therefore, 10 CFR 34.20 continues to be designated as a Division II Matter of Compatibility.

### **Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

### **Paperwork Reduction Act Statement**

This final 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 were approved by the Office of Management and Budget approval number 3150-0007.

### **Regulatory Analysis**

The NRC has prepared this final rule to cure a defect in its regulations that places an unnecessary and unwarranted burden on certain of its licensees that use sources and devices for radiography. There is no other procedure available to the NRC to efficiently and effectively rectify the matter. There is no cost to the licensed and regulated community in the promulgation of this rule. This discussion constitutes the regulatory analysis for this rule.

### **Backfit Analysis**

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

### **List of Subjects in 10 CFR Part 34**

Criminal penalties, Incorporation by reference, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

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 Commission is adopting the following amendments to 10 CFR Part 34.

#### PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

1. The authority citation for Part 34 continues to read as follows:

**Authority:** Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

2. Section 34.20 is amended by revising paragraph (a) and adding a new paragraph (f) to read as follows:

##### § 34.20 Performance requirements for radiography equipment.

\* \* \* \* \*

(a) Each radiographic exposure device and all associated equipment must meet the requirements specified in American National Standards Institute N432-1980, "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981). This publication has been approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a). This publication may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Copies of the document are available for inspection at the Nuclear Regulatory Commission library, 11545 Rockville Pike, Rockville, Maryland, 20852-2738. A copy of the document is also on file at the Office of the **Federal Register**, 800 North Capitol Street NW., Suite 700, Washington, DC 20408.

Engineering analyses may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the Commission may find this an acceptable alternative to actual testing of the component pursuant to the referenced standard.

\* \* \* \* \*

(f) Notwithstanding paragraphs (a), (d), and (e) of this section, equipment used in industrial radiographic operations need not comply with section 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value

representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

Dated at Rockville, MD, this 17th day of May, 1995.

For the Nuclear Regulatory Commission.

**James M. Taylor,**

*Executive Director for Operations.*

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#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of the Assistant Secretary for Fair Housing and Equal Opportunity

##### 24 CFR Part 135

[Docket No. R-95-1677; FR-2898-F-03]

RIN 2529-AA49

##### Economic Opportunities for Low- and Very Low-Income Persons; Notice of Extension of Effective Date for Interim Rule

**AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

**ACTION:** Final rule; Extension of effective period of interim rule.

**SUMMARY:** This rule extends the effective period for HUD's interim rule that amended part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992, until HUD publishes the final rule for this program.

**EFFECTIVE DATE:** This rule, which extends the effective period of the interim rule, is effective June 30, 1995.

The effective period for 24 CFR part 135 is extended from June 30, 1995 until the final rule implementing the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992, is published and becomes effective.

**FOR FURTHER INFORMATION CONTACT:** John Waller, Office of Economic Opportunity, Room 5232, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2251 (voice/TDD). (This is not a toll-free number.)

##### SUPPLEMENTARY INFORMATION:

##### I. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for

effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 provides for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, because prior public procedure is unnecessary. This final rule is technical, in that it merely extends the effective period for existing regulations, and it effects no substantive change to those regulations. The public has had an opportunity to comment on the substance of the regulations, as the interim rule for this program was published subject to the normal 60-day public comment period, and the interim rule was preceded by a proposed rule which also provided a 60-day public comment period.

##### II. Background

On June 30, 1994 (59 FR 33866), HUD published an interim rule that amended 24 CFR part 135 to implement comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 by the Housing and Community Development Act of 1992. Section 3, as amended, requires that economic opportunities generated by certain HUD financial assistance for housing (including public and Indian housing) and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

The preamble to the interim rule described HUD's policy of setting an expiration date for an interim rule that is effective unless a final rule is published before that date. This "sunset" provision appears in § 135.2 of the interim rule, and provides that the interim rule will expire on June 30, 1995, which is 12 months after the publication date.

The final rule amending 24 CFR part 135 to implement the comprehensive changes made to section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), by the Housing and Community Development Act of 1992, is in its last stages of review, and publication is anticipated in June 1995. However, in order to prevent a period in which the Department will be without effective regulations, HUD is extending the effective period of the interim rule