

12:30 p.m. Affirmation Session (Public Meeting) (If needed)

*Week of March 29—Tentative*

There are no meetings scheduled for the Week of March 29.

THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415-1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415-1661.

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**ADDITIONAL INFORMATION:** By a vote of 5-0 on March 2, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Kansas Gas & Electric Corp., et al., (Wolf Creek Generating Station, Unit 1), Docket No. 50-482, Draft Commission Memorandum and Order Addressing Intervention Petition and Hearing Request of the Kansas Electric Power Cooperative" (PUBLIC MEETING) be held on March 2, and on less than one week's notice to the public.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmh@nrc.gov](mailto:wmh@nrc.gov) or [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: March 4, 1999.

**William M. Hill, Jr.,**  
*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 99-5858 Filed 3-5-99; 11:58 am]

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## NUCLEAR REGULATORY COMMISSION

[NUREG—1600, REV. 1]

### Policy and Procedure for NRC Enforcement Actions; Interim Enforcement Policy for Generally Licensed Devices Containing Byproduct Material (10 CFR 31.5)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy statement.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, Rev. 1, by adding Appendix D to the policy. This amendment describes the interim enforcement policy that the NRC will follow to exercise enforcement discretion for certain violations of requirements in 10 CFR Part 31 for generally licensed devices containing byproduct material. It addresses violations that persons licensed pursuant to 10 CFR 31.5 identify and correct now, as well as during the initial cycle of the notice and response program contemplated by the proposed new requirements published in the **Federal Register** on December 2, 1998 (63 FR 66492), entitled "Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information".

**DATES:** This action is effective March 9, 1999. Comments on this interim enforcement policy should be submitted by April 8, 1999 and will be considered by the NRC prior to the next revision of the Enforcement Policy.

**ADDRESSES:** Submit written comments to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm, Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, (301) 415-2741.

#### SUPPLEMENTARY INFORMATION:

#### Background

In a separate action published in the **Federal Register** on December 2, 1998 (63 FR 66492), the NRC is proposing to amend its regulations in 10 CFR Part 31 to provide for more frequent and timely contact between the NRC and users of certain industrial devices containing byproduct material that are licensed pursuant to the general license provisions of 10 CFR 31.5. The NRC is proposing this rule after concluding that there is a lack of awareness of NRC regulatory requirements on the part of the user of the general license (general licensee). In addition, there is evidence

of inadequate handling of and accounting for generally licensed devices. Under the proposed rule, if finalized, the NRC intends to send notices to certain classes of persons licensed pursuant to the general license provisions of 10 CFR 31.5. These notices would require recipients to provide information to the NRC, as requested, concerning products that they have received under the general license.

For further information regarding these proposed new requirements, the reader is referred to the Statements of Consideration that accompany the proposed rule. As noted therein, the NRC anticipates that general licensees may discover violations of NRC regulatory requirements as a result of the proposed new requirement to respond to notices and provide information as requested. For example, general licensees who have not had contact with the NRC for many years may have failed to test for leakage of radioactive material from the generally licensed device, maintain the labels affixed to the device, or comply with the instructions and precautions in the labels. Additionally, general licensees may discover violations when copies of the proposed rule are mailed to them. For example, a general licensee that has changed its address of business may have abandoned or improperly transferred a generally licensed device during the process of moving. Under the current NRC Enforcement Policy published in NUREG-1600, Rev. 1., such violations normally would result in enforcement action.

#### Scope

This interim enforcement policy addresses violations that persons licensed pursuant to 10 CFR 31.5 discover and report before, as well as during, the initial cycle of the notice and response program contemplated by the proposed rule described above. It will remain in effect through at least July 1, 2000, by which time it is expected that one complete cycle of the notice and response program will be completed. However, any delays in completing the first cycle of notice and response will be taken into account, and the effective time period of this interim enforcement policy will be lengthened accordingly.

Under this interim enforcement policy, enforcement action normally will not be taken for violations of 10 CFR 31.5 if they are identified by the general licensee, and reported to the NRC if reporting is required, provided that the general licensee takes appropriate corrective action to address the specific violations and prevent

recurrence of similar problems and otherwise has undertaken good faith efforts to respond to NRC notices and provide requested information. This change from the Commission's normal enforcement policy is to remove the potential for the threat of enforcement action to be a disincentive for the licensee to identify deficiencies. This approach is warranted given the limited NRC inspections of general licensees. This approach is intended to encourage general licensees to determine if applicable requirements have been met, to search their facilities to assure that sources are located, and to develop appropriate corrective action when deficiencies are found. Under this interim enforcement policy, enforcement action, including issuance of civil penalties and Orders, may be taken where there is: (a) Failure to take appropriate corrective action to prevent recurrence of similar violations; (b) failure to respond and provide the information required by the notice and response program (if it becomes a final rule); (c) willful failure to provide complete and accurate information to the NRC; or (d) other willful violations, such as willfully disposing of generally licensed material in an unauthorized manner.

#### **Paperwork Reduction Act**

This policy statement amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements have been approved by the Office of Management and Budget (OMB), control number 3150-0016.

#### **Public Protection Notification**

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

#### **Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a "major" rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, the NRC Enforcement Policy is amended by adding Appendix D as follows:

#### **General Statement of Policy and Procedure for NRC Enforcement Actions**

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#### **Appendix D: Interim Enforcement Policy for Generally Licensed Devices Containing Byproduct Material (10 CFR 31.5)**

This Appendix sets forth the interim enforcement policy that the NRC will follow to exercise enforcement discretion for certain violations of requirements in 10 CFR Part 31 for generally licensed devices containing byproduct material. It addresses violations that persons licensed pursuant to 10 CFR 31.5 identify and correct now, as well as during the initial cycle of the notice and response program contemplated by the proposed new requirements published in the **Federal Register** on December 2, 1998 (63 FR 66492), entitled "Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information".

#### **Exercise of Enforcement Discretion**

Under this interim enforcement policy, enforcement action normally will not be taken for violations of 10 CFR 31.5 if they are identified by the general licensee, and reported to the NRC if reporting is required, provided that the general licensee takes appropriate corrective action to address the specific violations and prevent recurrence of similar problems and otherwise has undertaken good faith efforts to respond to NRC notices and provide requested information.

#### **Exceptions**

Enforcement action may be taken where there is: (a) failure to take appropriate corrective action to prevent recurrence of similar violations; (b) failure to respond and provide the information required by the notice and response program (if it becomes a final rule); (c) willful failure to provide complete and accurate information to the NRC; or (d) other willful violations, such as willfully disposing of generally licensed material in an unauthorized manner. Enforcement sanctions in these cases may include civil penalties as well as Orders to modify or revoke the authority to possess radioactive sources under the general license.

Dated at Rockville, Maryland, this 3rd day of March, 1999.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 99-5748 Filed 3-8-99; 8:45 am]

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#### **NUCLEAR REGULATORY COMMISSION**

#### **Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Commercial Radiopharmacy Licenses, Availability of Draft NUREG**

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The NRC is announcing the availability of and requesting comment on draft NUREG-1556, Volume 13, "Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Commercial Radiopharmacy Licenses," dated December 1998.

NRC is using Business Process Redesign (BPR) techniques to redesign its materials licensing process, as described in NUREG-1539, "Methodology and Findings of the NRC's Materials Licensing Process Redesign." A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the 13th program-specific guidance developed to support an improved materials licensing process.

The guidance is intended for use by applicants, licensees, NRC license reviewers, and other NRC personnel. This document combines and updates the guidance found in "Draft Regulatory Guide DG-0006" (previously issued as FC 410-4), "Guide for the Preparation of Applications for Commercial Nuclear Pharmacy Licenses" (March 1997), and Standard Review Plan 85-14, "Standard Review Plan for Applications for Nuclear Pharmacy Licenses." This draft report takes a more risk-informed, performance-based approach to licensing commercial radiopharmacies and reduces the information (amount and level of detail) needed to support an application to use these devices. Note that this document is strictly for public comment and is not for use in preparing or reviewing commercial radiopharmacy licenses until it is published in final form. It is being distributed for comment to encourage public participation in its development.

**DATES:** The comment period ends June 7, 1999. Comments received after that time will be considered if practicable.

**ADDRESSES:** Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to DLM1@NRC.GOV.

Those considering public comment may request a free single copy of draft NUREG-1556, Volume 13, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Sally L. Merchant, Mail Stop TWFN 9-F-31, Washington, DC 20555-0001.