

# Proposed Rules

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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, 20, and 50

#### Collection, Reporting, or Posting of Information; Availability of Draft Rule Language

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Availability of draft rule language.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is making available the draft wording of possible changes to its regulations. The changes under consideration would clarify or revise the regulations to reduce unnecessary regulatory burden associated with the collecting, reporting, and posting of information. The NRC staff is making the draft rule language available to inform stakeholders of the NRC staff's consideration of possible changes to its regulations, and to solicit comments on the staff's direction and draft language. The draft wording and several specific requests for feedback are available on the NRC's public Web site at <http://ruleforum.llnl.gov>.

**DATES:** Submit comments by April 9, 2004. Comments received after this date will be considered if it is practical to do so, but the Commission 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. Personal information will not be removed from your comments:

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

*E-mail comments to:* [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher at (301)

415-5905; e-mail: [cag@nrc.gov](mailto:cag@nrc.gov).

Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm on Federal workdays (Telephone: (301) 415-1966).

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

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at (800) 397-4209, (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

#### FOR FURTHER INFORMATION CONTACT:

William D. Reckley, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: (301) 415-1323; e-mail: [wdr@nrc.gov](mailto:wdr@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In SECY-02-0081, "Staff Activities Related to the NRC Goal of Reducing Unnecessary Regulatory Burden on Power Reactor Licensees," dated May 13, 2002 (ADAMS Accession No. ML020420137), the NRC staff described various interactions with stakeholders regarding ways to reduce unnecessary regulatory burden. By memorandum dated June 25, 2002 (ADAMS Accession

No. ML021760768), the Commission directed the staff to proceed with its evaluation of possible rule changes. In developing the initiative described in SECY-02-0081, the NRC staff solicited observations and suggestions by placing a notice in the **Federal Register** (66 FR 22134; May 3, 2001) and sponsoring a workshop on May 31, 2001. In a letter dated July 2, 2001 (ADAMS Accession No. ML011870432), the Nuclear Energy Institute provided a list of suggestions from its members for possible changes to several regulations that could reduce unnecessary regulatory burden, including certain reporting and labeling requirements in 10 CFR parts 19 and 20. The NRC staff has evaluated the suggestions from industry and other stakeholders and selected 10 CFR 19.13, "Notifications and reports to individuals," 10 CFR 20.2104, "Determination of prior occupational dose," and container labeling requirements as being candidates for further consideration. The NRC staff is also considering changes to 10 CFR 20.1003 to clarify the use of the effective dose equivalent in place of the deep dose equivalent in dose assessments (see Regulatory Issue Summary 2003-04, "Use of the Effective Dose Equivalent in Place of the Deep Dose Equivalent in Dose Assessments," dated February 13, 2003; ADAMS Accession No. ML030370122). The NRC staff's preliminary assessment is that these regulations result in regulatory burdens on licensees beyond what is needed to protect workers and the public against radiation.

#### Discussion

The rulemaking under consideration would revise several administrative requirements associated with the collection, reporting, and posting of information. The draft wording for the changes being considered by the NRC staff may be viewed on the NRC's public Web site at <http://ruleforum.llnl.gov>.

The first change being considered would affect 10 CFR 19.13 and related regulations in 10 CFR Part 20. Prior to 1992, 10 CFR 19.13(b) required licensees to provide each worker annually the worker's occupational dose "[a]t the request of any worker." Thereafter, the Commission amended its regulations (58 FR 23360; May 21, 1991) to conform to 1987 Presidential guidance for Federal agencies on

occupational radiation protection (52 FR 2822; January 27, 1987). NRC licensees are currently required to advise each worker annually of the worker's received dose as shown in records maintained by the licensee pursuant to 10 CFR 20.2106, "Records of individual monitoring results." Licensees are required by 10 CFR 20.2106 to maintain records of doses received by all individuals for whom monitoring was required pursuant to 10 CFR 20.1502, "Conditions requiring individual monitoring of external and internal occupational dose." Under 10 CFR 20.1502, licensees are required to monitor occupational radiation exposure for workers likely to receive a dose in excess of 10 percent of the limits specified in 10 CFR 20.1201, "Occupational dose limits for adults," or for workers who enter a high or very high radiation area. Licensees make this determination prospectively with a measure of conservatism, so that many of the workers monitored by licensees actually receive no measurable exposure or only a small fraction of the doses specified in 10 CFR 20.1502. As a result, the recordkeeping and reporting requirements have applied to a large number of workers, thereby increasing administrative costs to licensees. The NRC staff is considering a change to the reporting requirement so that licensees would continue the current reporting for workers who receive more than 2 percent of the limits specified in 10 CFR 20.1201 (this would generally translate to exceeding a total effective dose equivalent (TEDE) of 100 millirem in one year), but would not be required to provide annual dose reports to workers who receive less than 2 percent of those limits. Licensees would continue to provide all workers access to information from their dose records and would provide any worker with a copy of their annual dose report upon request. The staff's initial criteria of 100 millirem was selected because it corresponds to the annual dose limit in 10 CFR 20.1301, "Dose limits for individual members of the public," and is also the threshold for requiring employee training pursuant to 10 CFR 19.12, "Instruction to workers."

In addition to other comments or suggestions regarding this possible change to NRC regulations, the NRC staff requests that stakeholders responding to this solicitation address the following questions:

(1) Does the language being considered appropriately balance the intent of the Federal government's guidance and regulations related to occupational exposure in terms of avoiding burdensome requirements for

doses that are insignificant while adequately providing individuals with information about their occupational exposures?

(2) Has the staff suggested appropriate criteria for when licensees are required to provide a report to workers (*i.e.*, is "exceeds 2 percent of the dose limits in 10 CFR 20.1201(a) or the worker makes a request for a report of their dose" a reasonable threshold)?

(3) Would the change, if made based on the language being considered, result in cost savings to licensees? If so, please provide an estimate of the savings.

(4) Should licensees be required to notify workers periodically of their right to request their dose report (*e.g.*, when the worker is issued a personal dosimeter or annually)?

(5) Does the possible consolidation of required reports to individuals into 10 CFR 20.2205 and the deletion of 10 CFR 19.13(d) clarify the regulations and would there be a significant cost associated with implementing this possible change?

The second change under consideration would revise 10 CFR 20.1905, "Exemptions to labeling requirements," or alternatively add a new regulation to 10 CFR part 50 which would define an exemption from 10 CFR 20.1904 for certain containers within facilities with licenses issued under parts 50 or 52. The exempted containers would need to satisfy conditions such as being located within an area posted in accordance with 10 CFR 20.1902, being conspicuously marked, and being accessible only to trained individuals.

In addition to other comments or suggestions regarding this possible change to NRC regulations, the NRC staff requests that stakeholders responding to this solicitation address the following questions:

(1) Does the language being considered provide adequate controls for radioactive materials stored within facilities licensed under 10 CFR part 50?

(2) Would the change, if made based on the language being considered, result in cost savings to part 50 licensees? If so, please provide an estimate of the savings.

(3) Are there categories of materials licensees to which this exemption might be applied, where adequate controls for radioactive materials stored within these facilities could be provided by the conditions being considered for the exemption? If so, what would be the cost savings to these licensees?

The third change under consideration involves 10 CFR 20.2104. This possible change would revise the requirement in 10 CFR 20.2104(a)(2) for licensees to

attempt to obtain the records of cumulative occupational radiation dose for each worker requiring monitoring pursuant to 10 CFR 20.1502. The information on occupational doses in years other than the current year is not used except in performing evaluations required by 10 CFR 20.1206, "Planned special exposures." Requirements related to obtaining information, performing evaluations, maintaining records, and making reports to individuals and the NRC about planned special exposures are codified in 10 CFR 20.1206 and 20.2104(b). The NRC staff is considering changing 10 CFR 20.2104 to require that licensees obtain the records of cumulative occupational radiation dose only for those individuals being authorized to receive a planned special exposure.

In addition to other comments or suggestions regarding this possible change to NRC regulations, the NRC staff requests that stakeholders responding to this solicitation address the following questions:

(1) Would the change, if made based on the language being considered, ensure adequate protection of radiation workers?

(2) Would the change, if made based on the language being considered, result in cost savings to licensees? If so, please provide an estimate of the savings.

The fourth change under consideration by the NRC staff is to revise the definition of TEDE in 10 CFR 20.1003 to be more consistent with the technical basis for the requirements in Part 20 (*e.g.*, the recommendations of the International Commission on Radiological Protection in its Publication 30, a copy of which may be purchased through Elsevier at <http://www.elsevier.nl/locate/series/icrp>). The change under consideration resolves a source of possible confusion in the current regulation by clarifying that the TEDE is the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures). If a licensee is not using a method approved by the NRC for determining effective dose equivalent with radiation measuring devices, the deep dose equivalent, determined for the highest exposed part of the whole body, will be substituted for the effective dose equivalent (for external exposures). Regulatory Issue Summary 2003-04 provides the regulatory basis, and approved methods, for using the effective dose equivalent from external exposures in complying with the regulatory requirements, and limits, on TEDE.

In addition to other comments or suggestions regarding this possible

change to NRC regulations, the NRC staff requests that stakeholders responding to this solicitation address the following questions:

(1) Is the proposed definition of TEDE consistent with the technical basis of the current regulations in 10 CFR part 20 (e.g., recommendations of the International Commission on Radiological Protections in its Publications 26 and 30)?

(2) Does the language clarify the existing requirements as explained in Regulatory Issue Summary 2003-04?

(3) Should the rule address approvals by Agreement States of dosimetry methods for using effective dose equivalent when external exposure is determined by measurement? If so, how should approval by one jurisdiction be considered by other jurisdictions to ensure consistent results and to minimize state-by-state variations in approach for licensees operating in multiple jurisdictions?

The draft rule language is preliminary and may be incomplete in one or more respects. The NRC staff is releasing the draft rule language to inform stakeholders of the NRC staff's consideration of possible changes to 10 CFR parts 19, 20, and 50, and to invite stakeholders to comment on the draft revisions. As appropriate, the Statements of Consideration for the proposed rule will briefly discuss substantive changes made to the rule language as a result of comments received. Comments may be provided as indicated under the **ADDRESSES** heading. The NRC may post updates periodically on the rulemaking web site that may be of interest to stakeholders.

Dated at Rockville, Maryland, this 18th day of February, 2004.

For the Nuclear Regulatory Commission.

**William H. Ruland,**

*Director, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-3890 Filed 2-23-04; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1926

[Docket No. H011G]

RIN No. 1218-AB89

#### Announcement of Stakeholder Meetings for Hearing Conservation Program for Construction Workers

**AGENCY:** Occupational Safety and Health Administration (OSHA); Department of Labor.

**ACTION:** Scheduling of stakeholder meetings.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is inviting the public to participate in informal stakeholder meetings on a Hearing Conservation Program for Construction Workers. The Agency invites the public to address the following subjects: Noise exposure monitoring, audiometric testing, and portability of records for workers in the construction industry with significant noise exposures.

**DATES:** *Stakeholder meetings.* Stakeholder meetings will be held on March 24th and 25th, 2004 in Chicago, Illinois, at Embassy Suites Hotel—Rosemont, 5500 North River Road, Rosemont, Illinois 60018 (telephone 847-678-4000, fax 847-928-7659). Both meetings will begin at 8:30 a.m. and end at 12:30 p.m. Interested parties are requested to notify OSHA of their intent to participate in one of the stakeholder meetings by March 8, 2004. Each half day session will have the same agenda and format. Stakeholders are encouraged to attend only one half-day meeting. OSHA plans to schedule an additional meeting in the Washington, DC area at a later date.

**ADDRESSES:** If you wish to participate in a stakeholder meeting you must notify OSHA by e-mail, facsimile, or mail, as set forth below, giving your name, affiliation, contact information, the stakeholder session you plan to attend, and whether you wish to be an active participant or an observer.

*Electronic:* OSHA encourages you to submit your notice of intent to participate in a stakeholder meeting via e-mail to [garner.christie@dol.gov](mailto:garner.christie@dol.gov).

*Facsimile:* You may fax your notice of intent to participate in a stakeholder meeting to Christie Garner at (202) 693-1678.

*Mail:* You may also notify OSHA of your intent to participate in a stakeholder meeting, by mail, to Christie

Garner, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3718, 200 Constitution Ave., NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Michael Seymour, Office of Physical Hazards, Directorate of Health Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3718, 200 Constitution Avenue, NW., Washington DC 20210, telephone (202) 693-1950.

**SUPPLEMENTARY INFORMATION:** OSHA issued a section 6(b)(5) health standard mandating a comprehensive hearing conservation program for noise-exposed workers in general industry in 1983. However, no rule was promulgated to cover workers in the construction industry. Studies show that as many as 750,000 construction workers are currently exposed to noise levels of 85 dBA or greater at work. The largest number of worker exposures to excessive noise occurs during road construction, carpentry, and concrete work. International experience and data show that hearing conservation programs in the construction industry can be effective in reducing occupational hearing loss.

On August 5, 2002, the OSHA published an Advance Notice of Proposed Rulemaking (ANPR) addressing noise-induced hearing loss among workers in the construction industry, current practices to reduce this loss, and additional approaches and protections that could be used to prevent such loss in the future (67 FR 50610). The Agency has reviewed the forty-seven comment received in response to the ANPR and other available information. The stakeholder meetings announced here are a continuation of the information gathering process.

#### Stakeholder Meetings

OSHA requests the public to address the following issues.

- *Exposure Monitoring:* OSHA seeks further information from stakeholders' experiences on the most effective approach to evaluating noise exposures in construction;
- *Audiometric Testing:* OSHA seeks practical approaches to providing audiometric testing in construction, where a significant portion of the workforce is transient; and
- *Portability of Records:* OSHA seeks ideas and approaches on how to create long-term audiometric records for short-term employees, and solicits ideas on how to decrease the difficulty of