

# 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 Part 31

[NRC-2011-0214]

#### Impacts of Compatibility Changes in General License Regulations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Public meeting and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) plans to hold public meetings on September 20, 2011, in Lisle, Illinois, and on September 22, 2011, in Mansfield, Massachusetts, to solicit information on impacts to manufacturers and distributors and end-users of generally licensed devices from revising the compatibility categories of Title 10 of the Code of Federal Regulations (10 CFR) 31.5 and 31.6 from "B" to "C." In addition to providing information on impacts at the public meetings, information on the issues raised in this document may be submitted to the NRC at any time through the end of the comment period.

**DATES:** Submit comments on the issues raised in the Discussion section of this document by October 30, 2011. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date. It is not the intent of the NRC to respond to comments received on the issues raised in this document, but to inform the Commission on the impacts of their previous decisions.

**ADDRESSES:** Please include Docket ID NRC-2011-0214 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

You may submit comments on the issues raised in the Discussion section of this document by any one of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0214. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (telephone: 301-415-1677).

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

#### FOR FURTHER INFORMATION CONTACT:

Stephen Poy, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-7135; e-mail: [Stephen.Poy@nrc.gov](mailto:Stephen.Poy@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this proposed rule using the following methods:

- **NRC's Public Document Room (PDR):** The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the 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's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- **Federal Rulemaking Web Site:** Public comments and supporting materials related to this proposed rule can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0214.

#### Background

On December 2, 2010, the Commission issued a Staff Requirements Memorandum, SECY-10-0105, [Final Rule: Limiting the Quantity of Byproduct Material in a Generally Licensed Device (RIN 3150-AI33; NRC-2008-0272) (ADAMS Accession No. ML100690242)] and acted on the final rule that would amend 10 CFR part 31. The amendment would have limited the quantity of byproduct material contained in a generally licensed device to below one-tenth ( $\frac{1}{10}$ ) of the International Atomic Energy Agency Category 3 thresholds. Individuals possessing devices with byproduct material at or above  $\frac{1}{10}$  of the Category 3 threshold values would have been required to apply for and obtain a specific license. After review, the Commission decided to disapprove the publication of the final rule, but approved revising the compatibility categories of §§ 31.5 and 31.6 from Category B to Category C. The NRC program elements in Category B are those that apply to activities that have direct and significant transboundary implications. An Agreement State should adopt program elements essentially identical to those of the NRC program elements in Category C. The

NRC program elements in Category C are those that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the NRC program elements. The Commission also directed the staff to solicit information on the impacts of the change in compatibility. These meetings represent one mechanism being used to solicit information on the impacts of this change.

### Discussion

On December 2, 2010, the Commission issued SECY-10-0105 and acted on the final rule that would amend 10 CFR part 31. The Commission decided to disapprove the publication of the final rule while revising the compatibility categories of §§ 31.5 and 31.6 from B to C. The Commission directed staff to report back with a description of which Agreement States, if any, will act to modify their program as a result of the change in compatibility for §§ 31.5 and 31.6, how the programs were modified and provide an analysis of any transboundary impacts to the regulated community, particularly for those operating on a multi-state basis. The NRC staff queried the Agreement States to collect information on their current regulatory program, and whether they intend to modify their current regulations equivalent to §§ 31.5 and 31.6. The feedback from the States received to date was that the Agreement States do not intend to modify their current general license (GL) regulatory programs as a result of the Commission's decision to revise the compatibility categories of §§ 31.5 and 31.6 from B to C. Therefore, the NRC staff has assumed that the current Agreement State GL regulatory environment is the base case for evaluating impacts on manufacturers and distributors and end-users. Given the assumption that the current regulatory environment will continue, the staff concluded that there would be minimal impact to manufacturers, distributors, and end-users of generally licensed devices. If this is incorrect, please provide the following information that details the impact to your business:

(a) What would be the impacts of changing the compatibility categories of §§ 31.5 and 31.6 from B to C?

(b) What would be the distribution impediments?

(c) If there are any other impacts brought about by changes in the State regulations, please explain.

To assist the NRC staff in evaluating the impact of the change in compatibility, the NRC staff requests additional information in the following areas:

From Manufacturers/Distributors, it is necessary to understand:

(a) What are the current practices used by companies to address multiple jurisdictions and the registration requirements of generally licensed devices and §§ 31.5 and 31.6 (or the State equivalent)?

(b) What are the costs incurred by companies by doing business in multiple jurisdictions with regard to the registration requirements of generally licensed devices and §§ 31.5 and 31.6 (or the State equivalent)?

(c) What are the costs to health and safety in doing business in multiple jurisdictions with regard to the registration requirements of generally licensed devices and §§ 31.5 and 31.6 (or the State equivalent)?

(d) Do you have any comments on the regulation of generally licensed devices associated to §§ 31.5 and 31.6 (or the State equivalent) that affect you with regard to where your company is located or where your customers are located?

From the End-Users, it is necessary to understand:

(a) What is the difference in cost of generally licensed devices purchased by you in comparison to devices without radioactive material with regard to the registration requirements of generally licensed devices and §§ 31.5 and 31.6 (or the State equivalent)?

(b) What regulatory costs influence your decisions in the generally licensed devices that are purchased?

(c) What choices are made by you regarding health and safety and security with regard to which generally licensed devices are purchased by you?

(d) Do you have any comments regarding the regulation of generally licensed devices associated to §§ 31.5 and 31.6 (or the State equivalent) that affect you with regard to where you are using your generally licensed devices?

In addition to providing information at the public meetings, a submittal of information in response to the preceding questions may be sent to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this document through the end of the comment period.

### Public Meetings

In selecting the dates for these public meetings, it is the goal for the NRC staff

to organize and execute a facilitated discussion through which comments and suggestions can be obtained from the participants and attendees on the topics and issues identified in this document. The information obtained will help the NRC to better understand the impacts on the generally licensed device community of this change in compatibility.

Each public meeting is planned for one day. The NRC staff will be available with background information to have an informal discussion from 12 p.m. to 2 p.m. The NRC staff will make a brief presentation and then solicit information from the public from 2 p.m. to 5:30 p.m.

The address for the meeting locations and final agenda for the public meetings will be available at least 10 days prior to the meetings on the NRC Public Meeting Schedule Web Site at <http://www.nrc.gov/public-involve/public-meetings/index.cfm>. Prior to the meeting, attendees are required to register with the meeting organizer to ensure sufficient accommodations can be made for their participation. Please let the contact person know if special services are needed (hearing impaired, etc.).

Dated at Rockville, Maryland, this 1st day of September 2011.

For the Nuclear Regulatory Commission.

**Jim Luehman,**

*Acting Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. 2011-23225 Filed 9-9-11; 8:45 am]

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## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket No. EERE-2011-BT-STD-0047]

RIN 1904-AC56

### Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Energy Conservation Standards for Direct Heating Equipment

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of extension of public comment period.

**SUMMARY:** This notice announces that the period for submitting comments on the notice of proposed rulemaking for direct heating equipment is extended to October 14, 2011.