

OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

Notice of Denial of Petition for Rulemaking Signed by EDO

On December 23, 2004, the Executive Director for Operations denied a petition for rulemaking submitted by Sander C. Perle, ICN Worldwide Dosimetry (now Global Dosimetry Solutions, Inc.), dated March 19, 2003. The petitioner requested that the NRC amend its regulations to require that:

- (1) Any dosimeter, without exception, that is used to report dose of record and demonstrate compliance with the dose limits specified in the Commission's regulations, be processed and evaluated by a dosimetry processor holding accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology. The petitioner specifically referenced electronic dosimeters.
- (2) The definition of "Individual monitoring devices" in 10 CFR 20.1003 be revised to mean any device used by licensees to show compliance with 10 CFR 20.1201.
- (3) "Electronic dosimeters and optically stimulated dosimeters" be added as additional examples of individual monitoring devices.

The petition was docketed as PRM-20-25. The petition was published in the *Federal Register* on May 5, 2003 (68 FR 23618), for a 75-day comment period. Twelve comment letters were received. Six commenters recommended that NRC deny the petition, three commenters supported the petition but with substantial changes, and three comments were received from the petitioner responding to comments that the NRC received on the petition.

The NRC denied the petition because there is insufficient evidence that it solves a regulatory problem or improves health and safety. The proposed revision would apply to essentially all dosimeters and result in unintended requirements. Accreditation by NVLAP would be required of processors for essentially all types of dosimetry, beyond the electronic dosimetry that was referenced in the petition. The suggested amendments would result in an increase in burden for licensees, without any added health and safety benefit.

The proposed revision would also remove the current exception for NVLAP accreditation for processors of extremity dosimeters in § 20.1501(c). NRC agrees, in principle, that it is a good idea to include extremity dosimetry that requires processing in the requirement for NVLAP accreditation for processors. However, the American National Standards Institute (ANSI) and Health Physics Society (HPS) standard for extremity dosimeters, ANSI/HPS N13.32-1995, "Performance Testing of Extremity Dosimeters," is undergoing a major revision. Additionally, the staff is aware that much of the industry is voluntarily obtaining NVLAP accreditation for processing of extremity dosimetry. Consequently, the staff believes that it is premature to remove this regulatory exception. Therefore, NRC is not taking any regulatory action on this issue.

NRC has evaluated the petition against the backfitting requirements and has determined that the requested amendments, if granted, would require a backfit. The revisions proposed in the petition would not pass a backfit analysis. There is insufficient evidence that the petition is solving a regulatory problem or improving health and safety. There is no evidence that the existing regulations are not adequate to protect health and safety. The increase cost to licensees does not warrant granting this petition.

This notice informs the Commission that, in accordance with the rulemaking authority delegated to the EDO, the EDO has signed the *Federal Register* Notice denying the petition and proposes to forward it on January 3, 2005, to the Office of the Federal Register for publication, unless otherwise directed by the Commission.

The petition denial can be found in ADAMS at ML042710492.