

August 24, 2000

MEMORANDUM TO: William D. Travers  
 Executive Director for Operations  
**Original Signed by**

FROM: Patricia G. Norry **Patricia G. Norry**  
 Deputy Executive Director for Management Services

SUBJECT: FINAL RULE AMENDING REFERENCES TO SECTION 202  
 OF THE ENERGY REORGANIZATION ACT

Attached for your signature is a Federal Register notice that amends the regulations in 10 CFR Parts 1, 2, 19, 30, 40, 50, 51, and 70 to make a number of minor conforming changes to the regulations that reference Section 202 of the Energy Reorganization Act. This action is necessary to ensure that all references to Section 202 are consistent and complete.

Because these amendments involve either matters of agency organization or minor conforming changes to existing regulations, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553 (b) (A) and (B). Therefore, good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature.

Also attached is an entry for the Daily Staff Notes which informs the Commission that the EDO has signed this final rule. Congressional committees are not being informed and a public announcement will not be issued.

The Office of the General Counsel has reviewed this final rule and has no legal objection.

Attachment:

1. Federal Register notice
2. Approved for Publication
3. Daily Staff Notes

Distribution:

V. Wilson P. Norry  
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 NAME: ASHEPARD *for* DMEYER *mm* VWILSON MSPRINGER PNORRY  
 DATE: *8/1/00* *8/12/00* *8/12/00* *8/12/00* *8/12/00*

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 1, 2, 19, 30, 40, 50, 51, and 70**

**RIN: 3150-AG53**

**Revision of References to Section 202 of the Energy Reorganization Act**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes a number of minor conforming changes to the regulations that reference Section 202 of the Energy Reorganization Act. The final rule is necessary to remove the footnotes that describe the provisions of Section 202 in order for all such references in the regulations to be consistent and complete. This final rule also corrects a typographical error in Part 19, makes other minor changes to conform Part 51 to other parts of this chapter, and reflects the abolishment of the Office for Analysis and Evaluation of Operational Data.

**EFFECTIVE DATE:** (Insert date of publication in the Federal Register).

**FOR FURTHER INFORMATION CONTACT:** Alzonia W. Shepard, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**Telephone:** (301) 415-6864.

## SUPPLEMENTARY INFORMATION:

### Background

There are multiple references to Section 202 of the Energy Reorganization Act of 1974, in NRC regulations at 10 CFR 2.4, 30.4, 40.4, 50.2, 50.11, 70.4, and 70.11. These references are inconsistent in that some cite Section 202, while others describe provisions of Section 202 in a footnote. Those references that describe Section 202 are also incomplete because they do not reflect amendments to Section 202. Because of the inconsistency and incompleteness of the references to Section 202, and to avoid repeated changes to the regulations to reflect any amendments of Section 202, the NRC is amending the regulations to cite Section 202, rather than include text of Section 202 in a footnote.

The NRC is also making other minor conforming changes to its regulations: deletion of 10 CFR 1.35, "Office for Analysis and Evaluation of Operational Data" because that office has been abolished; correction of a typographical error in 10 CFR 19.32 by substituting "Title VII" for "Title VI;" and deletion in 10 CFR 51.22(c)(1) of the reference to Part 0 because of the repeal of that part.

Because these amendments involve either matters of agency organization or minor conforming changes to existing regulations, the NRC has determined that notice and comment under the Administrative Procedure Act 5 U.S.C. 553 (b) (A) and (B) is unnecessary and that good cause exists to dispense with such notice and comment. For these reasons, good cause also exists to dispense with the usual 30-day delay in the effective date. Therefore, the amendments are effective upon their publication in the Federal Register.

### **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) (1) and (2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final 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 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0044, -0017, -0020, -0011, -0021, and -0009.

### **Public Protection Notification**

If a means used to impose 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.

### **Regulatory Analysis**

A regulatory analysis has not been prepared for this final rule because the final rule makes minor conforming changes to the regulations that reference Section 202 of the Energy Reorganization Act, and makes other minor changes to the regulations.

### **Backfit Analysis**

The NRC has determined that these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1); therefore, a backfit analysis need not be prepared.

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 NRC is adopting the following amendments to 10 CFR Parts 1, 2, 19, 30, 40, 50, 51, and 70.

#### Part 1--Statement of Organization and General Information

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

**AUTHORITY:** Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85-256, 71 Stat. 579, Pub. L. 95-209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

#### §1.35 (Removed)

2. Section 1.35 is removed.

#### Part 2--Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders

3. The authority citation for Part 2 continues to read as follows:

**AUTHORITY:** Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135);

sec. 114(f), Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.205(j) also issued under Pub. L. 101-410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135).

#### §2.4 (Amended)

4. In §2.4, in the definition of the term "person," footnote 4 is removed.

**Part 19 -- Notices, Instructions, and Reports to Workers; Inspection and Investigations**

5. The authority citation for Part 19 continues to read as follows:

**AUTHORITY:** Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282 2297f); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

6. Section 19.32 is revised to read as follows:

**§19.32 Discrimination prohibited.**

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity licensed by the Nuclear Regulatory Commission. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under Title VII of the Civil Rights Act of 1964. This remedy is not exclusive, however, and will not prejudice or cut off any other legal remedies available to a discriminatee.

**Part 30--Rules of General Applicability to Domestic Licensing of Byproduct Material**

7. The authority citation for Part 30 continues to read as follows:

**AUTHORITY:** Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued

under sec.184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

**§30.4 (Amended)**

8. In §30.4, in the definition of the term "person," footnote 1 is removed.

**Part 40--Domestic Licensing of Source Material**

9. The authority citation for Part 40 continues to read as follows:

**AUTHORITY:** Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L.97-415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

**§40.4 (Amended)**

10. In §40.4, in the definition "person," footnote 1 is removed.



Part 50--Domestic Licensing of Production and Utilization Facilities

11. The authority citation for Part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Section 50.37 also issued under E.O. 12829, 3 CFR 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR 1995 Comp., p. 391. Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

§50.2 (Amended)

12. In §50.2, in the definition "person," footnote 1 is removed.

§50.11 (Amended)

13. In §50.11, paragraph (b), footnote 2 is removed.

**Part 51-- Environmental Protection Regulations for Domestic Licensing  
and Related Regulatory Functions**

14. The authority citation for Part 51 is revised to read as follows:

**AUTHORITY:** Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853-854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95-604, Title II, 92 Stat. 3033-3041; and sec. 193, Pub. L. 101-575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100-203, 101 Stat. 1330-223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036-3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

15. In §51.22, paragraph (c)(1) is revised to read as follows:

**§51.22 Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.**

(c) \* \* \*

(1) Amendments to Parts 1, 2, 4, 7, 8, 9, 10, 11, 19, 21, 25, 55, 75, 95, 110, 140, 150, 170, or 171 of this chapter, and actions on petitions for rulemaking relating to Parts 1, 2, 4, 7, 9, 10, 11, 14, 19, 21, 25, 55, 75, 95, 110, 140, 150, 170, or 171.

\* \* \* \* \*

## Part 70--Domestic Licensing of Special Nuclear Material

16. The authority citation for Part 70 is revised to read as follows:

**AUTHORITY:** Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 193, 104 Stat. 2835 as amended by Pub.L. 104-134, 110 Stat. 1321, 1321-349 (42 U.S.C. 2243).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

### §70.4 (Amended)

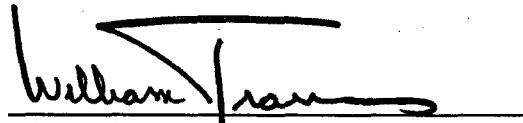
17. In §70.4, in the definition "person," footnote 9 is removed.

§70.11 (Amended)

18. In §70.11, in the introductory paragraph, footnote 10 is removed.

Dated at Rockville, Maryland, this 28 day of Aug. , 2000.

For the Nuclear Regulatory Commission.

A handwritten signature in black ink, appearing to read "William D. Travers", written over a horizontal line.

William D. Travers,  
Executive Director for Operations.

Approved for Publication

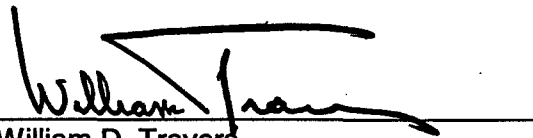
The Commission has delegated to the EDO (10 CFR 1.31(c)), the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551(4)) subject to the limitations in NRC Management Directive 9.17, Organization and Functions, "Office of the Executive Director for Operations," paragraphs 0213, 038, 039, and 0310.

The attached final rule entitled, "Revision of References to Section 202 of the Energy Reorganization Act," amends 10 CFR Parts 1, 2, 19, 30, 40, 50, 51, and 70 to make a number of minor conforming changes to the regulations that reference Section 202 of the Energy Reorganization Act. This action is necessary to ensure that all references to Section 202 are consistent and complete.

This final rule does not constitute a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 7, 8, or 9 (Subpart C) concerning matters of policy. I, therefore, find that this rule is within the scope of my rulemaking authority and I am proceeding to issue it.

August 28, 2000

Date



William D. Travers,  
Executive Director for Operations

DAILY STAFF NOTES

OFFICE OF ADMINISTRATION

FINAL RULE SIGNED BY EDO

On August 28, \_\_\_\_\_, 2000, the Executive Director for Operations approved a final rule that amends the regulations to make a number of minor conforming changes to the regulations that reference Section 202 of the Energy Reorganization Act. This final rule is necessary to remove the footnotes that describe the provisions of Section 202 of the Energy Reorganization Act in order for all such references in the regulations to be consistent and complete.

The notice informs the Commission that in accordance with the rulemaking authority delegated to the EDO, the EDO has signed this final rule and proposes to forward it on \_\_\_\_\_ to the Office of the Federal Register for publication, unless otherwise directed by the Commission.