

October 5, 2015

NOTE TO COMMISSIONERS' ASSISTANTS

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SUBJECT: STAFF PLANS TO RECOMMEND DISCONTINUING DEVELOPMENT OF
REGULATORY BASIS TO REVISE RADIATION PROTECTION REGULATIONS

The purpose of this Commissioners' Assistants Note is to inform the Commission of the staff's intent to submit a paper requesting Commission approval of the discontinuance of the development of a regulatory basis to revise radiation protection regulations to align with the most recent terminology and methodology for dose assessments in the International Commission on Radiological Protection (ICRP) Publication 103, "The 2007 Recommendations of the International Commission of Radiological Protection."

In Staff Requirements Memorandum (SRM)-SECY-08-0197, the Commission directed the staff to initiate development of the regulatory basis (referred to in SRM-SECY-08-0197 as a technical basis) for possible revision of the U.S. Nuclear Regulatory Commission's (NRC) radiation

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protection regulations, as appropriate and where scientifically justified, to achieve greater alignment with the 2007 recommendations in ICRP contained in ICRP Publication 103. Subsequently, in SRM-SECY-12-0064, the Commission directed the staff to develop a regulatory basis for a revision to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, “Standards of Protection Against Radiation,” along with a parallel alignment of 10 CFR Part 50, Appendix I, “Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion “As Low as is Reasonably Achievable” for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents,” to align with the most recent methodology and terminology for dose assessment (essentially, the ICRP Publication 103 recommendations). The Commission directed the staff to submit the draft regulatory basis by December 31, 2015, as a voting matter.

Both SRMs directed the staff to engage with stakeholders and interested parties in preparing the draft regulatory basis. In response, the staff has held numerous public meetings and public workshops and has issued two Advance Notices of Proposed Rulemaking (ANPR), one for the regulations in 10 CFR Part 20 and the other for those regulations in 10 CFR Part 50, Appendix I, that requested comments from the public. The Part 20 ANPR was published on July 25, 2014 (79 FR 43284), with a 120-day comment period; the public comment period was extended twice to June 22, 2015 (79 FR 69065 and 80 FR 14033). The NRC received almost 3,000 comments. The Part 50, Appendix I ANPR was published on May 4, 2015 (80 FR 25237), with a 120-day comment period; the public comment period has been extended to October 1, 2015 (80 FR 51481) at the request of external stakeholders. Both ANPRs sought responses to a series of detailed questions concerning the impacts of revising the NRC’s radiation protection regulations; both ANPRs also sought responses to questions concerning the NRC’s cumulative effect of regulation (CER) initiative.

In addition to the issuance of the ANPRs, the staff has conducted extensive stakeholder outreach to solicit input on the development of a regulatory basis, including numerous presentations at public meetings for Part 20 where staff requested feedback from stakeholders on the potential impacts and challenges that could result from the revision of NRC’s radiation protection regulations in accordance with the NRC’s CER initiatives. In a related effort, to support development of the regulatory basis, the staff, in conjunction with the U.S. Environmental Protection Agency, contracted with the Oak Ridge National Laboratory (ORNL) to develop dose coefficients that would provide the basis for a closer alignment of NRC methodologies with the ICRP Publication 103 recommendations.

As a result of these public outreach activities, including public comments from the Part 20 ANPR and based on resource considerations, the staff will recommend that the development of the regulatory basis be discontinued. The staff’s recommendation will be based on the recognition that the NRC’s current regulatory program continues to provide reasonable assurance of adequate protection of the health and safety of occupational workers and the public and that any amendments to Part 20 would not be cost justified. In this regard, many stakeholders, in comments responding to the Part 20 ANPR, asserted that amending Part 20 to align with ICRP Publication 103 would force the regulated community to take expensive compliance measures with little or no safety benefit to occupational workers or the public. Based upon the comments analyzed to date, the majority of stakeholders and some Federal Government agencies support terminating or delaying any efforts to incorporate the ICRP Publication 103 recommendations

into NRC's regulations without further peer review. While there is some support for alignment with updated methodologies, most who supported such an alignment also noted that the costs to implement it would be too high given that there is little to no increase in safety.

Given the cumulative effects of regulation impacts to licensee programs and the NRC, the inability to develop a quantitative backfit analysis supporting the contemplated changes in the Part 20 regulations, the substantial resources needed to develop and implement revisions that would provide little or no substantial increase in radiation safety protection, and the agency's current budgetary constraints, the staff has determined that it would not be an efficient and effective use of NRC's resources to continue development of the regulatory basis.

Given the level of effort completed and the interest of certain licensees and applicants to use updated methodologies, the staff intends to continue to fund the ongoing ORNL work to develop updated dose coefficients to reflect the ICRP Publication 103 recommendations as the ORNL deliverables will be useful to support options other than rulemaking to more closely align NRC's current radiation protection framework with the ICRP Publication 103 recommendations, such as updates to guidance documents. The SECY paper will address the growing gap between NRC and US requirements for radiation protection, and the recommendations of the ICRP and the International Atomic Energy Agency's Basic Safety Standards for Radiation Protection.

As stated, the comment period for the Part 50, Appendix I ANPR was extended until October 1, 2015. The staff anticipated that additional time may be needed to review and summarize the comments received in response to that ANPR. As a result, the staff requests to meet the SRM-SECY-12-0064 tasking by February 2016, summarizing the staff's activities and recommending that the NRC: (1) discontinue the staff's development of the regulatory basis and (2) pursue options, if justified, to more closely align the NRC's current radiation protection framework with the ICRP Publication 103 recommendations.

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