

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[NRC-2016-0117]

RIN 3150-AJ76

Update to Transcript Correction Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulation that governs the correction of official transcripts for agency adjudicatory proceedings. The current regulation has not been substantively updated since it was adopted in 1962 and the NRC's internal procedures have evolved since that time to incorporate technological development. The NRC is not soliciting public comment on this change because the change is limited to an agency rule of procedure and practice that does not affect the rights and responsibilities of outside parties.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID NRC-2016-0117 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0117. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For other questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Public Document Room (PDR):** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Tison Campbell, Office of the General Counsel, telephone: 301-287-9290, e-mail: Tison.Campbell@nrc.gov, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Summary of Changes

In 1962, the Atomic Energy Commission (the NRC's predecessor agency) adopted revised rules of practice and procedure to govern the conduct of adjudicatory proceedings before the agency (27 FR 377; January 13, 1962). As part of those regulations, the Commission adopted a paragraph governing the correction of hearing transcripts. That provision, originally at § 2.750(b) of title 10 of the *Code of Federal Regulations* (10 CFR), provided specific, prescriptive direction to the Commission's staff regarding the method for recording and showing corrections to transcripts. For example, the Secretary was directed to make any physical corrections to the official transcript, not by replacing pages, but by drawing a line through the text to be changed in the original transcript and writing the correct text immediately above.

The current agency practice varies. In Commission proceedings, an appendix listing the transcript corrections and a clean version of the transcript are attached to the order adopting the parties' proposed transcript corrections. In Atomic Safety and Licensing Board Panel proceedings, the boards generally issue an order adopting the parties' joint proposed transcript corrections, with or without an appendix listing the corrections. The Secretary does not prepare transcripts of board proceedings.

The NRC is, therefore, updating the regulation that governs the correction of official transcripts for agency adjudicatory proceedings, currently at § 2.327(d), to reflect advancements in technology and to bring its regulations in line with current agency practice. The revision to § 2.327(d) removes prescriptive requirements from the regulation and allows presiding officers flexibility in determining the method to prepare corrected transcripts. This change allows the presiding officer to list transcript changes in a table included in or appended to an order; issue a marked-up version of the transcript; issue a clean, revised version of the transcript; or select another method that ensures a clear and concise description of transcript changes.

II. Rulemaking Procedure

Under the Administrative Procedure Act (5 U.S.C. 553(b)(A)), notice and comment requirements do not apply "to interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice." Because this revision affects the NRC's rules of agency procedure and practice, the notice and comment provisions of the Administrative Procedure Act do not apply. Moreover, the final rule does not change the substantive responsibilities of any person or entity regulated by the NRC.

The amendments are effective upon publication in the *Federal Register*. Good cause exists under 5 U.S.C. 553(d) to dispense with the usual 30-day delay in the effective date of the final rule because the amendments are of a minor and administrative nature dealing with

changes to certain sections that do not require action by any person or entity regulated by the NRC.

III. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883).

IV. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this final rule.

V. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

VI. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801-808).

VII. Availability of Guidance

The NRC will not be issuing guidance for this rulemaking because the revised rule applies to the NRC only and does not affect the rights and responsibilities of outside parties.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Confidential business information, Freedom of information, Environmental protection, Hazardous waste, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

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 part 2.

PART 2 -- AGENCY RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 29, 53, 62, 63, 81, 102, 103, 104, 105, 161, 181, 182, 183, 184, 186, 189, 191, 234 (42 U.S.C. 2039, 2073, 2092, 2093, 2111, 2132, 2133, 2134, 2135, 2201, 2231, 2232, 2233, 2234, 2236, 2239, 2241, 2282); Energy Reorganization Act of 1974, secs. 201, 206 (42 U.S.C. 5841, 5846); Nuclear Waste Policy Act of 1982, secs. 114(f), 134, 135, 141 (42 U.S.C. 10134(f), 10154, 10155, 10161); Administrative Procedure Act (5 U.S.C. 552, 553, 554, 557, 558); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note. Section 2.205(j) also issued under Sec. 31001(s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note).

2. In § 2.327, revise paragraph (d) to read as follows:

§ 2.327 Official recording; transcript.

* * * *

(d) Transcript corrections. Corrections ordered or approved by the presiding officer must be included in the record through the issuance of an order by the presiding officer or the Secretary, as appropriate under the regulations in this part. The order shall reflect the corrections to the transcript through the use of a table, the issuance of a corrected or new transcript, or some other method selected by the presiding officer that will ensure a clear and concise description of the corrections.

Dated at Rockville, Maryland, this 14th day of July, 2016.

For the Nuclear Regulatory Commission.

/RA/

Cindy Bladey, Chief,
Rules, Announcements, and Directives Branch.
Office of Administration.