March 9, 1982



SECY-82-102

RULEMAKING ISSUE

(Affirmation)

For:

The Commissioners

From:

William J. Dircks, Executive Director for Operations

Subject:

ADVANCE NOTICE OF PROPOSED RULEMAKING ON CERTIFICATION OF INDUSTRIAL RADIOGRAPHERS (NDTMA PETITION FOR RULEMAKING

PRM-34-2)

Purpose:

To obtain Commission approval to publish an advance notice of proposed rulemaking concerning certification of industrial radiographers. The notice would solicit comments on alternatives presented and invite suggestions for other alternatives (Enclosure A).

Category:

This paper covers a minor policy question.

Background:

Over the past several years, radiography licensees, although they constitute only 3 percent of the NRC material licensees, have accounted for over 60 percent of the reported overexposures to the whole body greater than 5 rems and over 80 percent of the whole body overexposures greater than 25 rems. The Agreement States have had similar experience.

Generally, radiography overexposures are confined to individual radiographers. However, incidents do occur where members of the general public are exposed. In 1979, 9 members of the general public were exposed to radiation with 5 of them suffering injury as the result of an industrial radiography incident. In 1980, 31 members of the general public received doses from 90 - 4000 millirems as the result of another radiography incident. Due to the nature of industrial radiography which involves the use of large sources in the open air, the potential always exist for exposures to members of the general public.

Deficiencies in the training of radiographers have been suggested as a significant contributing cause in many of the overexposure

Contact: J. A. Jones, RES

443-5970

incidents. Under present NRC regulations, individual radiography licensees are permitted to train and designate individuals as qualified to act as radiographers under the authority of their licenses. The inherent problem with the present system is the lack of a satisfactory means of verifying the adequacy of the training provided by licensees to individual radiographers. The effectiveness of a radiography licensee's training program is primarily evaluated by inspecting the training records. While training records can be used as evidence that training was given, they do not ensure that the training was effective or that individual radiographers are knowledgeable in radiation safety and NRC regulations.

Additionally, as part of the inspection process, a small number of the total number of individuals conducting radiography are quizzed by NRC inspectors concerning their knowledge of NRC regulations and the licensees' operating and emergency procedures. Therefore, NRC does not have any direct knowledge concerning the competence of the majority of the individuals conducting radiography. The lack of an effective means of verifying the competence of each radiographer by NRC increases the potential of having inadequately trained individuals using potentially lethal sources in the public domain.

In 1978, the NRC published a petition for rulemaking (Enclosure B) from the Nondestructive Testing Management Association (NDTMA). The NDTMA is an organization composed of managers from the nondestructive testing industry and has as its goal promotion of the industry. The petition requested that NRC amend its requlations to provide for registration, licensing and control of individual radiographers. The NDTMA indicated in its petition that a program for licensing and control of individual radiographers would serve the following purposes: "First, it would provide the radiographer with a sense of pride in his knowledge that he has been registered by a government body. Secondly, an awareness that he is directly responsible for his safety performance. Third, that he is accountable for his conduct to the extent his registration could be limited, suspended, or revoked and future employment in the industry affected. Fourth, it would provide continuity of safety training and testing in an industry where employment is very mobile."

The NDTMA petition did not include any information to support the NDTMA opinion that a national radiographer licensing program would motivate individual radiographers to be more responsible and to work more safely. Comments concerning the motivational aspects of a licensing or certification program would be specifically requested in the advance notice. Eleven comments were received following the original publication of the NDTMA petition. The petition, and analysis of the comments, are enclosed (see Enclosure C).

In March 1980, due to the recurring problem of overexposures in the radiography industry, a new program was initiated by the NRC staff to improve radiation safety in industrial radiography. SECY-80-324 describes the elements of the new program. As firt of the program, an interoffice steering committee, organizaby NMSS and consisting of NRC senior staff personnel, was form to coordinate manpower, funding, scheduling and priorities for he program. The steering committee has established the resolution of the NDTMA petition as a priority item.

The new program discussed in the above paragraph is a follow-up to a program directed in an August 1976 Memorandum (Enclosure D) from Chairman Rowden to Mr. Gossick directing the NRC staff to develop a coordinated NRC action plan for remedying the problem of radiography overexposures. The action plan developed in accordance with Chairman Rowden's direction is described in SECY-77-34. The initiatives described in the action plan have had a positive impact on radiation safety in the radiography industry. However, the staff believed, since overexposures were continuing to occur, that further action was appropriate and, as a result, developed the program described in SECY-80-324.

The advance notice presents an alternative to the present system for training and designating individuals as radiographers, as discussed below:

1. Third-Party Certification Program

The advance notice presents the development of a regulatory program that incorporates a third-party certification program as a viable alternative to the present systems for designating individuals as radiographers. Under the third-party certification alternative, initially a standard for testing radiographers would be developed that is satisfactory to the NRC, the Agreement States, and the radiography industry. Secondly, organizations would have to be located that are willing to participate in a third-party certification program. Finally, the NRC would amend its regulations to only permit individuals who have been certified as meeting the standard by a certifying organization to act as radiographers.

Participants in a third-party certification system may be either organizations that promote the nondestructive testing industry or organizations that are independent from the industry. The NRC would be required to make a determination as to whether to recognize a particular organization's program for certification. Following acceptance of an organization's certification program, the NRC would amend its regulations to require certification by that organization.

In its policy, planning, and program guidance for FY 1983-1987, the Commission provided the following planning guidance to the staff: "The Commission believes that third-party certification can be an acceptable and effective method for promoting adequate

performance by individuals and organizations participating in the safety aspects of NRC-licensed activities. In recognition of limited staff resources, the NRC will further develop regulatory programs which incorporate third-party certification requirements as a major means of assuring adequate performance, such as certification programs for dosimetry processors, certification of laboratories to assess equipment qualifications, certification of industrial radiographers, and ASME boiler and pressure vessel code inspection and survey."

The NRC Executive Legal Director in a legal opinion stated that the NRC does not have authority to establish a radiographer licensing program in Agreement States (see Enclosure E). Therefore, the third-party certification program would not apply to Agreement States. However, the NRC staff is cooperating with the Agreement States in the development of a plan for a uniform national scheme of radiographer certification. Agreement and non-Agreement State representatives participate on the NRC steering committee. The Agreement States formally stated their support of a national radiographer certification program in an October 25, 1981, letter to the EDO (see Enclosure F).

The NRC staff believes that a third-party certification system would be acceptable to the Agreement States as a means of providing a national scheme for certification of radiographers.

 Radiography-Licensee Designation (Status Quo). Under this alternative the present system would be retained.

With respect to the two alternatives discussed above the following comments are appropriate concerning resources:

- a. The third-party certification alternative would require approximately 1 man-year of NRC effort for the purpose of auditing the performance of third-party certifiers to ensure that NRC standards are being met.
- b. The status quo alternative would not require an increase in the NRC licensing staff.

The Advance Notice (Enclosure A) invites interested persons to comment on the proposed alternative to the present system of permitting individual radiography licensees to train and designate individuals as radiographers. The notice also requests comments and suggestions concerning other alternatives. The staff believes that an advance notice should be published in order to obtain broader input concerning the certification issue. At present, only one comment has been received from an individual radiographer. Since an NRC third-party certificate program will have a significant impact on individual radiographers, it is important that their input be considered in any rulemaking activity.

This notice, if approved, would be supplemented by public meetings to be conducted in NRC Regions II, III, IV, V and Washington, D.C. The meetings would be scheduled in April or May 1982. The staff recommends that the public meetings be conducted to supplement the advance notice for the following reasons:

- They would emphasize the importance of the issue.
- They would result in broader public participation of both licensee management and radiographers.
- They would result in more probing, in-depth discussion as a result of the question and answer process.
- 4. The broader public input that would be provided by public meetings would enable the staff to make a more informed decision as to whether to proceed with the drafting of a proposed rule or to recommend denial of the NDTMA petition.

Recommendation:

That the Commission:

 Approve publication in the Federal Register of the advance notice of proposed rulemaking set out in Enclosure A.

2. Note

- (a) The advance notice of proposed rulemaking will provide 120 days for public comment during which the public meetings are to be held;
- (b) The Subcommittee on Energy and the Environment of the House Interior and Insular Affairs Committee, the Subcommittee on Energy and Power of the House Interstate and Foreign Commerce Committee, the Subcommittee on Environment, Energy and Natural Resources of the House Government Operations Committee, and the Subcommittee on Nuclear Regulation of the Senate Committee on the Environment and Public Works will be informed by a letter such as Enclosure G;
- (c) The Director of the Office of Public Affairs will issue a public announcement concerning this action such as Enclosure I;
- (d) A letter such as Enclosure H will be sent to the petitioner when the notice is filed with the Office of the Federal Register;

(e) Each NRC radiography licensee and each Agreement State licensee will be mailed copies of the Federal Register notice. NRC radiography licensees will be mailed several copies of the notice with a recommendation that they be distributed to individual radiographers. / greement States will also be encouraged to circulate the notice to radiographers within their jurisdiction.

William J. Dircks, Director Executive Director for Operations

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Enclosures:

A - Advance Notice of Rulemaking

B - Federal Register Notice, NDTMA Petition for Rulemaking

C - Analysis of Petition Comments

D - Memorandum Chairman Rowden to Gossick

E - ELD Legal Memorandum

F - Letter from Agreement States to EDO

G - Draft Letter to Congressional Committees

H - Draft Letter to Petitioner

 I - Public Announcement: NRC Considering National Program for Licensing Radiographers

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, March 24, 1982.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT March 17, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an open meeting during the week of March 29, 1982. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

Commissioners
Commission Staff Offices
Exec Dir for Operations
Exec Legal Director
ACRS
Secretariat

ENCLOSURE A

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 34]

Licenses for Radiography and Radiation Safety Requirements

Advance Notice of Proposed Rulemaking on Certification of Industrial Radiographers

AGENCY: Nuclear Regulatory Commission

ACTION: Advance Notice of Proposed Rulemaking

SUMMARY: Industrial radiography licensees, who constitute approximately 3 percent of the Nuclear Regulatory Commission licensees, account for over 60 percent of those reported overexposures that are greater than 5 rems to the whole body or 75 rems to the extremities. Radiography licensees are presently permitted to conduct their own programs for training and designating individuals as radiographers. The Commission, in consideration of a petition for rulemaking concerning a national program for licensing of radiographers, is presenting an alternative to the present system of permitting radiography licensees to train and designate individuals as radiographers. Interested persons are invited to submit written comments concerning this alternative and to participate in public meetings to be held in April or May 1982.

DATES: Comments should be received by (120 days after Federal Register Publication). Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments or suggestions for consideration in connection with the alternative may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Comments may be submitted in writing or presented orally at public meetings to be conducted in NRC Regions II, III, IV, V, and in Washington, D.C. in April or May 1982. The exact location, date, and time for each public meeting will be announced at a later date.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Jones, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5970.

SUPPLMENTARY INFORMATION: Industrial radiography involves the use of relatively large (multicurie) gamma-emitting sealed sources in nondestructive testing of metallic material for defects. Most radiographic operations require use of the sources in open air outside a shielded container. Therefore, a high radiation field is allowed to exist in the areas surrounding the source. NRC licensees must train radiographers to employ sound radiation safety practices to assure that neither the radiographer nor members of the general public are exposed to excessive radiation during the conduct of industrial radiography. The most critical element in the conduct of industrial radiography is for the radiographer to return the source to its shielded container after each radiographic exposure and to verify that the source is in its shielded position.

During the years of 1971 through 1980, radiography licensees, although they constitute approximately 3 percent of NRC material licensees, have been involved in over 60 percent of those reported overexposures to the whole body that were greater than 5 rems and over 80 percent of whole body exposures greater than 25 rems. The NRC Agreement States have had a similar experience.

Investigations of radiography overexposure incidents have indicated that the majority of the overexposures are the result of a failure by the radiographer to follow established operating procedures. The most common procedure violated is the failure to perform a physical radiation survey after each exposure to verify the source has been returned to its safe storage position.

Investigations of overexposure incidents by NRC and Agreement State inspectors have also indicated that inadequate training of radiographers may be a significant contributing cause in many of the overexposure incidents. The NRC does not at the present time have an effective means of determining the competency of individual radiographers. The NRC's Office of Inspection and Enforcement as part of its inspection of radiography licensees determines the training and knowledge of only a small percentage of the total number of radiographers. Therefore, the training and knowledge of the majority of the individuals conducting radiography in NRC jurisdiction is not known. The lack of an effective means of verifying the training of radiographers by the NRC increases the chance of having inadequately trained individuals using potentially lethal sources of radiation in the public domain.

Under present NRC regulations, individual radiography licensees are permitted under the authority of their licenses to train and designate individuals as qualified to act as radiographers. In such cases, the prospective radiography licensee submits a description of the training program for qualifying individuals to act as radiographers as a part of the overall application for a radiography license. The training program is reviewed for its adequacy by the NRC staff and, if it is found to be acceptable, the licensee is granted authority to train and designate individuals as radiographers. The inherent problem with the present system is the difficulty of verifying the effectiveness of the training programs. The NRC inspectors' primary means of determining the adequacy of a licensee's training program is by inspecting training records. While training records may serve as evidence that training was given, they do not provide an adequate basis for concluding that the training was effective or that individual radiographers are knowledgeable in NRC regulations and the licensee's operating and emergency procedures.

The Nondestructive Testing Management Association (NDTMA) requested in a 1977 petition for rulemaking that the NRC amend its regulations to provide for registration, licensing and control of individual radiographers. This advance notice of proposed rulemaking is being published in part to resolve the NDTMA petition and in part to further NRC efforts to improve radiation safety in the radiography industry. In August 1978, the NDTMA petition was published for comment in the Federal Register (43 FR 34563). Eleven comments were received concerning the petition. The majority of the comments received concerning the petition stated that the present

system for designating individuals as radiographers is adequate and that an NRC licensing program would be costly and would not reduce the number of overexposures in the radiography industry.

In the petition for rulemaking the NDTMA stated that in its opinion the Commission was overlooking a major contributing cause of incidents in the radiography industry. The reference was to cases where the radiographer acts negligently on his own despite being provided proper training, testing, and safety equipment. The NDTMA indicated that a program for licensing and control of individual radiographers would reduce the rate of occurrence of this kind of incident by making individual radiographers more responsible for their actions. The NDTMA added that, "it is not the intent, nor would this proposal in any way reduce the responsibility of the licensee."

The NDTMA petition did not include any information to support its opinion that a national licensing program would motivate individual radiographers to work more safely. Interested persons are specifically invited to comment concerning the motivational aspects of a certification program.

The issue of radiographer licensing has been considered for implementation at various times by the AEC/NRC since 1964. In its past considerations, the staff has not conclusively determined whether an NRC program for licensing of radiographers is desirable. The NRC now believes that due to budgetary constraints and the lack of personnel and equipment that an NRC program for licensing of radiographers is not feasible. However, the NRC does believe that the present system of permitting individual radiography licensees to train and designate individuals as qualified to

act as radiographers has deficiencies. An alternative to the present system is discussed below:

Third-Party Certification

The present system for training radiographers permits wide disparity in the competence of individual radiographers depending primarily upon the quality of the particular licensee's training program. The NRC believes the present system would be improved if the final determination of competence to act as a radiographer was made by an independent body. In view of the limited staff resources, the NRC believes the development of a regulatory program that incorporates a third-party certification requirement for individual radiographers is the most feasible means of increasing NRC's assurance of the competency of radiographers. The NRC would encourage and support initiatives on the part of the radiography industry in establishing a third-party certification program for testing radiographers.

Implementation of a third-party certification program would require the development of a certification standard that is satisfactory to the NRC, the radiography industry, and other interested persons. The NRC would also be required to amend 10 CFR Part 34 of its regulations to specify that only individuals who have been tested and certified as meeting the provisions of the standard may act as radiographers under the authority of NRC licensees.

The NRC would especially appreciate receiving comments from organizations that would be interested in participating in a third-party certification program for industrial radiographers. Participants in the program

could be either organizations that promote the nondestructive testing industry or organizations that are independent from the industry. The NRC would make a determination as to whether to recognize a particular organization's program for certification. Following acceptance of an organization's certification program as meeting NRC standards, the NRC regulations would be amended to require certification by that organization.

Radiography-Licensee Designation (Status Quo)

An alternative to the third-party certification program would be to continue with the present system of permitting radiography licensees to train and designate their own radiographers.

In light of previous discussion, the NRC is particularly interested in receiving comments concerning the following:

- 1. Is the training provided to radiographers under the present system adequate?
- 2. Would a third-party certification program reduce the number of overexposures in the radiography industry?
- 3. Would a third-party certification program motivate radiographers to work more safely?
- 4. What elements in the present system or in the suggested alternative are particularly desirable or undesirable? Why?

- 5. If a third-party certification program is adopted, what items should be included in the standard for determining the competence of individuals to act as radiographers?
- 6. If a third-party certification program is adopted, should it apply to individuals presently working as radiographers or only to new radiographers?
- 7. If a third-party certification program is adopted, should certificates be issued to individuals for life or should there be periodic renewals of the certification.
- 8. Would a third-party certification program affect the ability of a licensee to respond to variable manpower needs?
- 9. Since a third-party certification program would likely be based on cost recovery by a fee system, would the cost to the licensees of such a program be warranted?
- 10. Which alternatives of the two discussed (present system, third-party certification) is preferable? Why? Are there other better alternatives? If so, please explain.
- 11. With respect to the two alternatives, what kind of enforcement action could and should be taken against radiographers who do not operate

equipment safely or follow established procedures? What rights should radiographers have with respect to such enforcement actions?

Invitation to Comment

Comments concerning the desirability of establishing a third-party certification program for certifying radiographers are invited. Comments are specifically solicited concerning the alternatives described in this notice. Suggestions of other alternatives, and estimates of costs for implementation of the programs, are encouraged.

Dated	at Washington,	D.C.	this			day of	, 1982	
			FOR	THE	NUCLEAR	REGULATORY	COMMISSION	
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ENCLOSURE B

MICHAL COMMISSION FOR THE TYPEW OF ANTITRUST LAWS AND MOCEDURES

Meeting

the is hereby given that the Natical Commission for the Review of the Commission for the Review of the Commission of the Review of the Commission of the Review of the Review of the Pederal Advisory title Act (Pub. L. 92 403; 86 for 170) will hold a public meeting Tuesday, August 15, 1978, starting of the Russell of the Russell both of the Russe

the purpose of the meeting is to detipe work plan that will establish for priorities, identify specific for primary consideration, profor the completion of ongoing reth projects, and address the need and subject matter of future public

Cled: August 1, 1978.

TIMOTHY G. SMITH, Staff Director.

Doc. 78-21706 Filed 8-3-78; 8:45 am)

T37-01]

MATIONAL FOUNDATION ON THE

ADDITECTURE, PLANNING, AND DESIGN

Meeting

Pursuant to section 10(a)(2) of the Address Advisory Committee Act (Pub. L. 12-463), as amended, notice is briby given that a meeting of the Architecture, Planning, and Design Advisory Panels to the National Council on Le Arts will be held August 21, 1978, 500 9 a.m. to 5:30 p.m.; August 22, 1978, from 9 a.m. to 5:30 p.m.; August 22, 1978, from 9 a.m. to 5:30 p.m.; and August 25, 1978, from 9 a.m. to 5:30 p.m.; and August 25, 1978, from 9 a.m. to 5:30 p.m.; in the 11th Floor Conference Rooms of the Columbia Plaza of the Building, 2401 E Street NW., Yushington, D.C. 20506.

This meeting is for the purpose of fivel review, discussion, evaluation, and recommendation on applications in financial assistance under the Natical Poundation on the Arts and the financial act of 1965, as amended, and in confidence to the agency by the applicants. In accordance with the determination of the Chairman which did not the Federal Register of firth 17, 1977, these sessions will be deed to the public pursuant to sub-

on (c) (4), (6), and (9)(B) of sec-

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK.

Director, Office of Council and Panel Operations, National Endowment for the Arts.

AUGUST 1, 1978.

(FR Doc. 78 21651 Filed 8-3-78; 8:45 am)

[7537-01]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Services to the Field) to the National Council on the Arts will be held August 28, 1978, from 9 a.m. to 5:30 p.m.; August 29, 1978, from 9 a.m. to 5:30 p.m.; and August 30, 1978, from 9 a.m. to 5:30 p.m., in Room 1426 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and (9)(1) of section 552 of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John II. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK, Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 1, 1078.

(Fit Doc. 78-21650 Filed 8-3-78; 8:45 am]

[7537-01]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(3) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the

Specif rojects Advisory Panel (Folk Arts). The National Council on the Arts will be held on August 25, 1978, from 9 a.m. to 5 p.m.; and August 26, 1978, from 9:30 a.m. to 5:30 p.m., in Room 1422 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on August 26, 1978, from 9:30 a.m. to 1 p.m. Topics for discussion will be guidelines and policy.

The remaining sessions of this meeting on August 25, 1978, from 9 a.m. to 5 p.m.; and August 26, 1978, from 1 p.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and (9)(b) of section 552b of title 5, United States

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and
Panel Operations National
Endowment for the Arts.

AUGUST 1, 1978.

(FR Doc. 78-21652 Filed 8-3-78; 8:45 aml

[7590/01]

NUCLEAR REGULATORY

[Docket No. PRM-34-2]

NON DESTRUCTIVE TESTING MANAGEMENT

Filling of Petition for Rulemaking

Notice is hereby given that Mr. Watter P. Peeples, Jr., President, Non Destructive Testing Management Association, has filed with the Nuclear Regulatory Commission a petition for rulemaking to amend the Commission's regulations.

By letter dated June 24, 1977, Mr. Peeples proposed a system for the registration of industrial radiographers. This proposal has been under review by the NRC staff since that time. On June 28, 1978, Mr. Peeples requested that his letter be considered a petition for rulemaking pursuant to § 2.802 of 10 CFR Part 2 of the Commission's

FEDERAL REGISTER, VOL. 43, NO. 151-FRIDAY, AUGUST 4, 1978

regulations, and it has been so accepted by the Commission.

The petitioner requests the Commission to amend its regulations to provide for registration, licensing, and control of individual radiographers. Attached to the petition is an outline of a suggested program for NRC registration of industrial radiographers. The petitioner states that registration and licensing of individual radiographers would reduce overexposure and prevent needless exposure.

The purpose of the petition is set forth in section 1.0 of the attachment to the petition, as follows:

1.0 PURPOSE

To reduce the incidence of overexposure, to prevent needless exposure, to curtail noncompliance, and advance the overall safety of the radiographic industry.

1.1 DISCUSSION

It is the consensus opinion in the industrial radiographic industry that the Commission is overlooking a major contributing cause of incidents in the industry. Ine reference is to those cases where the radiographer is acting independently and negligently on his own despite being provided proper training, testing, and adequate safety equipment. It is proposed that only through the registration, licensing, and control of the individual radiographer can the industry overexposure record be improved, the NDTMA is convinced that until the radiographer is motivated by a sense of individual responsibility for his own acts and their results, will the industry be a safer one. It is recommended that the registration program would serve several purposes. First, it would provide the radiographer with a sense of pride in his knowledge that he has been registered by a government body. Secondly, an awareness that he is directly responsible for his safety performance. Third, that he is accountable for his conduct to the extent his registration could be limited, suspended, or revoked and future employment in the industry affected. Fourth, it would provide continuity of safety training and testing in an industry where conployment is very mobile. It is not ' e intent, nor would this proposal in my way reduce the responsibility of the licensee.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room. 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Becretary of the Commission, U.B. Nu clear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by October 3, 1978.

Dated at Washington, D.C., this 31st day of July 1978.

For the Nuclear Regulatory Com-

Secretary of the Commission.
FR Doc. 78-21507 Filed 8-3-78: 8:45 am]

EVIEW OF HEC DECOMMISSIONING POLICY

State Workshops

The Nuclear Regulatory Commission (NRC) is now considering development of a more explicit overall policy for nuclear facility decommissioning and amending its regulations in 10 CFR Parts 30, 40, 50, and 70 to include more specific guidance on decommissioning criteria for production and utilization licensees and byproduct, facility source, and special nuclear material licensees. An advance notice of proposed rulemaking was published in the FEDERAL REGISTER on March 13, 1978 (FR 43 10370-10371, FR Doc. 78-6461). The NRC staff set forth in detail its proposed plan for the development of an overall NRC policy on decommissioning of nuclear facilities in NUREG-0436, "Plan for Recvaluation of NRC Policy on Decommissioning of Nuclear Facilities," March 1978.

To obtain the views of the States on its policy, NRC is holding three regional workshops to discuss the specifics of the NRC plan (NUREG-0436) as well as its first two decommissioning reports (NUREG-0278), "Technology, Safety, and Costs of Decommissioning a Reference Nuclear Fuel Reprocessing Plant" and NUREG/ CR-0130 "Technology, Safety, and Costs of Decommissioning a Reference Pressurized Water Reactor." The Governors, legislative leadership and public utility chairmen of each State have been invited to send representatives to participate in any one of the three workshops. Information developed at the workshops will be considered in the recvaluation of NRC's decommissioning policy. The results of additional studies now underway, involving other types of nuclear activities, will be discussed at workshops planned for 1979.

The workshop locations and dates are as follows:

September 18-20, Holiday Inn Midtown, 1305-11 Walnut Street, Philadelphia, Pa. 19107. Biptember 25 27, Bheraton Billmore End. 817 West Peachtree Street NE, Atlanta Co. 30383

Rio Grande Boulevard NW., Alburgard, N. Mcx. 87104

These workshops are being held to obtain the views of, and to provide the opportunity for discussion among that officials; however, all sessions will be open to public attendance and observation on a space available back. Reports will be filed in the NRC Public Document Room.

Persons who wish further information about these workshops or wish to observe should write Ms. Shipley Ingebritsen, Workshop Coordinator, SCS Engineers, 11800 Sunrist Valley Drive, Reston, Va. 22091, or call 703-620-3677, giving name, address, and phone number.

Dated at Bethesda, Md., this 28th' day of July 1978.

For the Nuclear Regulatory Com-

HAROLD E. COLLINS,
Acting Director,
Office of State Programs

(FR Doc.78-21506 Filed 8-3-78; 8:45 am)

[7\$90-01]

[Docket No. 50 409]

DAIRYLAND POWER COOPERATIVE;

Heuring: Amendment to Provisional Operating
License: (Spent-Fuel Pool)

On May 25, 1978, the Nuclear Regulatory Commission published a notice in the PEDERAL REGISTER, 43 FR 22462, that the Commission is considering the issuance of an amendment to the provisional operating license Na DPR- 45 Issued to Dairyland Power Co. operative for operation of the La-Boiling Water Crosse Reactor (LACBWR). The amendment would change the provisional license to allow more spent nuclear fuel to be stored at LACEWR by modifying the storage racks in the spent-fuel storage pool The proposed modifications would increase the storage capacity from 134 to 448 fuel assemblies by replacing the existing storage racks with racks capsble of holding more a sembiles. This would be in accordance with the IIcensee's application dated April 20, 1978.

The notice of hearing provided that any person whose interest may be affected by this proceeding and who wishes to participate as a party to the proceeding must file a petition for leave to intervene and request a hearing on or before Jone 23, 1978.

Pursuant to the notice a timely petition for leave to intervene and request for a hearing pursuant to 10 CFR

ENCLOSURE C

Analysis of the NDTMA Petition Comments

The NRC received 11 comments in response to the NDTMA petition. Two of the comments were in favor of the petition and nine of the comments were in opposition to the petition.

The following reasons were provided by the commentators who supported the petition:

- 1. The radiography industry is made up of many very small companies whose radiographers constitute a very mobile work force. It is possible for a radiographer to be dismissed by one employer for a serious item of non-compliance and then move on to a new employer where he can again be performing radiography in a short period of time. A centralized licensing program by NRC would prevent this type of situation.
- A licensing program would make the individual radiographer more responsible for his action due to the potential for suspension or revocation of his license.

The commentators who opposed the petition provided the following reasons:

- The existing NRC licensing and compliance program is adequate to control the safety performance, radiographic accountability and continuity of training and testing provided by radiography licenses.
- 2. A licensing program would not reduce the number of accidental over-exposures.
- A national licensing program would make it difficult to respond to changes in work force requirements if tests were only given at a certain time and place.
- 4. A licensing program will not motivate a radiographer to work more safely. The motivation of an employee is a management responsibility.
- A licensing program would not make individual radiographers more responsible for their actions. This can only be done by adequate indoctrination, training and supervision by management.
- A licensing program would result in increased government involvement in private industry.

ENCLOSURE D

ENCLOSURE E



UNITED STATES NUCLEAR REGULATORY COMMISSION WASHINGTON, D. C. 20505

MAY 1 9 1930

MEMORANDUM FOR:

William J. Dircks, Director

Office of Nuclear Material Safety and Safeguards

FROM:

Howard K. Shapar

Executive Legal Director

SUBJECT:

MRC'S LEGAL AUTHORITY TO ESTABLISH A NATIONAL

RADIOGRAPHER LICENSING PROGRAM

In a series of staff meetings over the past few weeks, CELD was asked whether or not NRC has the legal authority to establish a national radiographer licensing program. Enclosed please find CELD's legal memorandum on "NRC's Legal Authority To Establish A National Radiographer Licensing Program." The issue, in turn, involves several subissues, as foilows:

- 1. Has Congress given NRC authority to license simultaneously both fires conducting radiographic operations and their radiographer employees, as it does utilities and their reactor operators?
- May NRC's national licensing program preempt individual Agreement State jurisdiction? If not, how can Agreement States and NRC create such a program?
- 3. What guidelines should be followed with respect to the issue of responsibility and liability of radiographic firms and their employees?

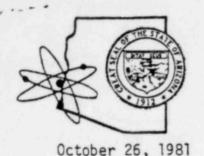
We conclude that Congress has given NRC authority to establish a radiographer licensing program only in non-Agreement States. NRC would have to cooperate with Agreement States to get their support if their participation in a uniform national scheme were desired. The issue of responsibility and Howard K. Shapar 8006130380 CF liability is difficult and complex and will have to be studied carefully in light of the Commission's Atlantic Research decision.

Executive Legal Director

Enclosure: As stated.

Vcc: 8. Singer, RMSS

ENCLOSURE F



STATE OF ARIZONA RADIATION REGULATORY AGENCY

925 S. 52nd Street, Suite 2 . Tempe, AZ 85281 Phone: (602) 255-4845

Mr. William J. Circks Executive Director, Operations U. S. Nuclear Regulatory Commission Washington, D.C. 20555

Dear Mr. Dircks:

The 26 Agreement States Program Directors forwarded a recommendation to the NRC based on the 1980 meeting in Atlanta, Georgia stating, "It is the opinion of the Agreement States that the NRC and Agreement States should continue to accelerate the development of a certification program for industrial radiographers. It is the intent of the Agreement States to adopt and participate in a national radiographer certification program."

The following subsequent unanimous motion was passed by the 1981 Agreement State Program Directors at Dallas, Texas:

"that the chairman or chairman pro tem write a letter to the commission requesting that the NMSS's certification efforts in the national licensing requirements for industrial radiographers and efforts in personnel dosimetry be expeditiously accomplished."

The aforementioned statements are considered to be self illuminating. Any assistance that could be provided to accomplish these vitally important 8903930096 CF goals would be greatly appreciated.

Sincerely,

Charles F. Tedford

Acting Chairman

1981 Agreement States Meeting

CFT: cap

cc: 26 Agreement State Program Directors Wayne Kerr, Director, State Programs

003655

ENCLOSURE G

DRAFT CONGRESSIONAL LETTER

Dear Mr. Chairman:

Enclosed for the information of the Subcommittee are copies of an Advance Notice of Proposed Rulemaking to be published in the Federal Register.

This notice would put the radiography industry on notice that the NRC is considering a program for third-party certification of individual radiographers; the notice would also solicit comments and suggestions concerning the desirability of such a program.

The notice is being published in part to resolve a Nondestructive Testing Management Association petition for rulemaking that requested the NRC to amend its regulations to provide for registration, licensing and control of individual radiographers, and in part to further NRC efforts to improve radiation safety in the radiography industry.

Robert B. Minogue, Director Office of Nuclear Regulatory Research

Enclosures: Advance Notice of Proposed Rulemaking

1

ENCLOSURE G

ENCLOSURE H

Non Destructive Testing Management Association Attn: Executive Secretary and Treasurer P.O. Box 1214 Magnolia Park Station Burbank, CA 91507

Gentlemen:

This letter refers to your petition for rulemaking in which you requested that NRC amend its regulations to provide for registration, licensing and control of individual radiographers.

In order to obtain additional information to assist us in resolving your petition, we are publishing an advance notice of proposed rulemaking on a third-party certification program for radiographers. Enclosed is a copy of the notice which will be published in the <u>Federal Register</u>. The notice will invite public comments concerning radiographer licensing; a comment period of 120 days will be provided. The notice will be supplemented by public meetings to be conducted in NRC Regions II, III, IV, V and Washington, D.C. The meetings will be scheduled in

The exact location, date, and time for each public meeting will be announced at a later date.

Docket Number PRM-34-2 has been established for your petition. Please contact Mr. James A. Jones, (301) 443-5970, if you have any questions.

Sincerely,

Robert E. Alexander, Chief Occupational Radiation Protection Branch Office of Nuclear Regulatory Research

Enclosure: Advance Notice of

Proposed Rulemaking

Task No.: OP 806-3

ENCLOSURE I

NRC CONSIDERING NATIONAL PROGRAM FOR LICENSING RADIOGRAPHERS

The Nuclear Regulatory Commission is considering, in partial response to a petition for rulemaking, establishing a national program for third-party certification of radiographers.

Industrial radiography involves the use of sealed sources which emit gamma radiation to test metallic materials for defects. In most cases, the sources must be used in open air outside of their shielded containers, and a high radiation field is allowed to exist around the sources when they are being used.

In order to protect radiographers and members of the public from excessive exposure to this radiation field, the NRC now requires its licensees to train radiographers to employ sound radiation safety practices—most importantly, returning the radioactive source to its shielded container after each use and verifying that the source is in its shielded position.

Nevertheless, for the years 1971 through 1980, radiography licensees constituted only about three percent of the NRC's material licensees but accounted for over 60 percent of overexposures to radiation in excess of the NRC's limits. Investigations of these incidents show that they largely are the result of failure to follow established procedures—most commonly, failure to perform a physical radiation survey after each use to verify the source has been returned to its shielded storage position.

While applicants for licenses to use radiographic sources must include a training program for qualifying radiographers as part of the overall applicaion--

and the adequacy of the program then is reviewed by the NRC staff--it still is difficult to verify the actual effectiveness of the program.

In view of this, the Commission has under consideration a possible alternative to the present system. The NRC believes that the development of a regulatory program that incorporates a third party certification system would be a viable alternative to the present system for designating individuals as radiographers. Under the third-party certification alternative, initially a standard for testing radiographers would be developed that is satisfactory to the NRC, the Agreement States, and the radiography industry. Secondly, the NRC would locate and evaluate organizations that are willing to participate in a third-party certification program. Finally, the NRC would amend its regulations to only permit individuals who have been certified as meeting the standard by a certifying organization to act as radiographers.

The Commission is interested in receiving comments on the proposed alternatives as well as suggestions for other alternatives and estimates of costs for implementing various program. Comments should be submitted in writing by <u>date</u> and should be addressed to the Secretary of the Commission, Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

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