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POLICY ISSUE (Information)

January 30, 1991

SECY-91-023

For: The Commissioners

From: James M. Taylor, Executive Director for Operations

Subject: DEVELOPMENT OF REGULATORY GUIDES FOR 10 CFR PART 20

Purpose: To advise the Commission of the schedule for preparation of regulatory guides, and the steps which the staff believes to be necessary to prepare final guidance by the end of December, 1991.

Background: The staff requirements memorandum of November 20, 1990, (Enclosure 1) approved a delay in the required implementation date for the revised Part 20 for NRC licensees and for the Agreement States. As noted in the approval for the revised implementation schedule, the Commission approved the schedule with the understanding that all relevant regulatory guidance documents would be complete and available in final form by December 31, 1991.

Discussion: The normal procedure for the development of draft regulatory guides includes development by the staff, two rounds of Agency review (division and office), reviews by the ACRS and CRGR, and publication. After the public comment period, a similar review procedure is used to issue a final regulatory guide.

The staff is currently preparing 12 new or revised regulatory guides. These guides have been developed in two sets. The first set of guides has been reviewed at the division level, and is about to be reviewed at the office level. The second set of guides is about to be reviewed at the division level.

The purpose of a regulatory guide is to provide information to licensees on methods of complying with the regulations that are considered to be acceptable by the NRC staff. Regulatory guides are not regulations and, therefore, do

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NOTE: TO BE MADE PUBLICLY AVAILABLE
IN 10 WORKING DAYS FROM THE
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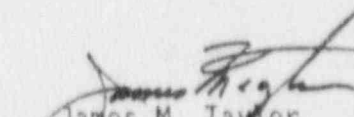
not have the force and effect of law. Furthermore, regulatory guides cannot address any requirements except those contained in a regulation. Previous rulemakings, such as License Renewal, Access Authorization, Medical QA, and ERDS provide a precedent for not preparing a separate Regulatory Impact Analysis when a regulatory guide accompanies a rulemaking. In the case of 10 CFR Part 20, the Commission has made it clear in the statement of considerations that a number of regulatory guides would be developed to support the revised rule. Any impact associated with the guides implementing the revision of 10 CFR Part 20 can therefore be considered to be within the impacts identified in the Regulatory Analysis for the revised rule itself. The staff does not plan to prepare separate regulatory impact analyses for each new or revised guide.

In order to complete these guides as final guides before the December 31, 1991 date requested by the Commission, it will be necessary to expedite the normal review and comment schedule. This is most easily accomplished by publishing the draft guidance for public comment immediately after completion of Office review. The ACRS and CRGR would be briefed on the guides during the public comment period, rather than before publication of the draft guide. After the public comment period, the draft regulatory guides would be reviewed and modified as appropriate, receive Office concurrence, and then be presented to the CRGR and the ACRS for their review. This expedited schedule would not eliminate any of the normal review steps, but does compress the process.

The expedited schedule discussed above has the advantage of providing for early public and industry input to the regulatory guidance development process. Early industry input has been requested by several industry groups. The staff will be in a better position to respond to issues and comments raised by the public, ACRS, and CRGR if it has early public and industry input. ACRS and CRGR viewpoints and comments obtained during the public comment process will be incorporated during the preparation of the final guidance.

I have authorized the staff to proceed with an expedited schedule for regulatory guide development.

Coordination: The Office of General Counsel has no legal objection to this paper.


James M. Taylor
Executive Director
for Operations

Enclosure:
1. SRM dated November 20, 1990

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OFFICE OF THE
SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

ACTION - Beckjord, RES

Cys: Taylor
Sniezek
Thompson
Blah
/HPeterson, RES
Murley, NRR
Bernero, NMSS
Scroggins, OC
Jordan, AEOD
DMeyer, ADM
BShelton, IRM

November 20, 1990

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

Harold R. Denton, Director
Office of Governmental and Public Affairs

FROM: *(i) Baker*
John C. Hoyle, Acting Secretary

SUBJECT: SECY-90-336 - IMPLEMENTATION DATE FOR 10 CFR
PART 20 REVISION

The Commission (with Chairman Carr and Commissioners Rogers and Remick agreeing) has approved a delay in the required implementation date for the revised Part 20 for NRC licensees from January 1, 1992 until January 1, 1993. The Commission (with all Commissioners agreeing) has approved a delay in the required implementation date for the revised Part 20 for Agreement States from January 1, 1992 until January 1, 1994. Commissioner Curtiss would have preferred a delay until January 1994 for both NRC and Agreement State licensees to allow adequate time for all licensees to implement the revisions.

The Commission has approved this implementation schedule with the understanding that all relevant regulatory guidance documents will be complete and available in final form by December 31, 1991. The Commission should be advised of any expected delay in meeting this date for issuance of the guidance.

~~(BDO)~~- (RES) (SECY Suspense: 12/31/91)

The Commission (with all Commissioners agreeing) has agreed the final rule should be made effective upon issuance, allowing for the customary delay period and renewal of the OMB clearance on paperwork reduction, subject to the above noted implementation dates. This will preclude the need for further NRC action allowing the licensees to implement the requirements at an earlier date provided the NRC is properly informed. Such a statement should be included in the Federal Register notice for

SECY NOTE: THIS SRM, SECY-90-336, AND THE VOTE SHEET OF COMMISSIONER CURTISS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS AFTER THE DATE OF THIS SRM.

Rec'd Off. EDO

Date 11-20-90
Time 3:30 p

the final rule. The Commission (with Commissioners Rogers, Curtiss, and Remick agreeing) decided that applicants seeking new licenses or holders of existing licenses filing for renewal after the effective date should be afforded the option of complying with either the revised Part 20 or with the previous version of Part 20 in their entirety until the above noted implementation dates. Chairman Carr would have preferred that applicants seeking new licenses after the effective date of the revised Part 20 be required to comply with the new rule.

State programs should notify the Organization of Agreement States and the Conference of Radiation Control Program Directors of the Commission's decision.

(~~EDD~~/GPA)

(SECY Suspense: 12/7/90)

Chairman Carr will send the attached letter in response to NUMARC's letter of July 27, 1990.

Attachment:

As stated

cc: Chairman Carr
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
OGC



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Mr. Byron Lee, Jr., President
Nuclear Management and Resources
Council
Suite 300
1776 Eye Street, N.W.
Washington, D.C. 20006-2496

Dear Mr. Lee:

I am responding to your July 27, 1990 letter regarding the implementation date of the revisions to 10 CFR Part 20. The Nuclear Regulatory Commission (NRC) agrees with you that "implementing the revised 10 CFR Part 20 is a major undertaking that needs to be done right." Accordingly, the Commission has decided to extend the implementation date of the revised Part 20 to January 1, 1993. This will allow an additional year for the conformance of licensee operating procedures with final regulatory guidance and will provide more time for training licensee personnel and NRC inspectors and license reviewers.

The Commission has also decided to make the revised Part 20 effective upon issuance, subject to the January 1, 1993 implementation date. NRC licensees may choose to implement the rule in its entirety prior to the implementation date, provided that NRC is properly informed. Implementing the revised rule at the beginning of the calendar year would minimize the need to reconcile quarterly and annual dose limits. Nevertheless, dose records can be appropriately reconciled and maintained by licensees that elect to implement the revised Part 20 at any time during the year prior to the implementation date.

With respect to the Agreement States, the Commission decided to extend the implementation date until January 1, 1994, given the long-standing NRC policy of allowing Agreement States up to three years from the date of issuance to implement an NRC rule. Therefore, Agreement States implementation schedules for the revised Part 20 may be delayed somewhat compared with the schedule for NRC licensees. Although this might cause minor difficulties for facilities that are regulated by both an Agreement State and the NRC (e.g., State-regulated radiographers working at a nuclear power plant site), the actual impact of the delay should be small because NRC is committed to working closely with the States on the implementation of the revised Part 20.

As part of a broader effort to facilitate implementation of the revised Part 20 at NRC- and Agreement State-licensed facilities, NRC has already begun training activities related to the new rule. For example, NRC sponsored a video teleconference, "An Overview of the NRC's Revised 10 CFR Part 20," on September 26, 1989. Although this teleconference was intended primarily for Agreement State personnel, representatives of non-Agreement States and numerous licensees also participated. The NRC staff has presented courses and lectures on the revised Part 20 at the national and mid-year meetings of the Health Physics Society, the National Meeting of the Industrial Hygiene Conference, and smaller organizations such as the Virginia Chapter of the Health Physics Society and the Army Industrial Hygiene Agency. Staff will conduct additional training and workshops in 1991 and 1992. In addition, commercial videotapes and training courses on the revised rule are also available.

In addition to training activities, development of the necessary guidance to implement the revised Part 20 has been underway for some time. The NRC staff plans to coordinate development of key regulatory guidance documents with licensees and other interested parties between now and the end of 1991, at which time all relevant regulatory guidance will be complete and available in final form. Early and constructive comments from organizations such as NUMARC would be beneficial in terms of ensuring timely and effective implementation of the revised rule by licensees, NRC, and Agreement States.

We look forward to the nuclear industry's continued cooperation in implementing the revised 10 CFR Part 20 and welcome any further suggestions you may wish to offer.

Sincerely,

Kenneth M. Carr