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**POLICY ISSUE**  
(NEGATIVE CONSENT)

March 24, 1994

SECY-94-080

For: The Commissioners  
From: James M. Taylor  
Executive Director for Operations  
Subject: REDUCING THE PUBLICATION FREQUENCY OF THE NRC REGULATORY AGENDA AND THE SUMMARY REPORT ON PETITIONS FOR RULEMAKING  
Purpose: To inform the Commission that the staff intends to reduce the publication of the NRC Regulatory Agenda from quarterly to semiannually, thereby reducing the frequency of the summary report on the status of petitions for rulemaking specified in 10 CFR 2.802(g), which is included in the NRC Regulatory Agenda.

Discussion: In response to a petition for rulemaking (PRM-2-4), the NRC amended its rules of practice governing the receipt and processing of petitions for rulemaking on October 31, 1977 (42 FR 56950). The final rule amended 10 CFR 2.802 to indicate that the NRC would prepare a summary report on the status of petitions for rulemaking on a quarterly basis and make this report available in the Public Document Room. This report was published under the heading "NRC Petitions for Rulemaking" until April 29, 1982, when it was incorporated into the NRC Regulatory Agenda and published in the Federal Register (47 FR 18508).

On November 9, 1979, the Commission requested that a quarterly summary be prepared for rulemaking efforts not associated with petitions for rulemaking. The NRC staff prepared a report that indicated the status of proposed rules and advance notices of proposed rulemaking for the period of January through March 1980. The Commission later

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492-7086

NOTE: TO BE MADE PUBLICLY AVAILABLE  
WHEN THE FINAL SRM IS MADE  
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recommended that this report be updated each quarter. This report was published under the heading "Status of Proposed Rules." It was subsequently replaced by the NRC Regulatory Agenda, which was first published in the Federal Register on October 29, 1981 (46 FR 53594).

The NRC Regulatory Agenda is a compilation of all rules on which the NRC has recently completed action, has proposed action, or is considering action, and all petitions for rulemaking that have been received by the Commission and are pending disposition. The NRC Regulatory Agenda provides the public with basic information regarding currently active NRC rulemaking activities and petitions for rulemaking. Since 1982, the NRC Regulatory Agenda has been updated and issued each quarter as NUREG-0936.

The NRC also submits an updated version of the rulemaking portion of its regulatory agenda for inclusion in the Unified Agenda of Federal Regulations to meet the requirements of the Regulatory Flexibility Act (5 U.S.C. 602) and Executive Order 12866. The Unified Agenda of Federal Regulations is published in the Federal Register.

The staff believes that the continued publication of the NRC Regulatory Agenda on a quarterly basis is unnecessary. The content and the status of the rulemaking actions and petitions for rulemaking do not change frequently enough to justify a quarterly publication. The staff believes that a semiannual publication schedule is sufficient to inform the public of the NRC's rulemaking activity and of the current status of NRC's active rulemakings and petitions for rulemaking.

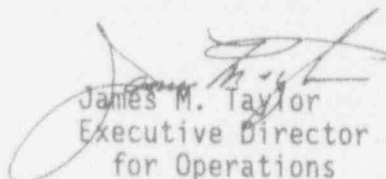
Publication of the NRC Regulatory Agenda on a semiannual basis will also (1) synchronize its publication with the Unified Agenda of Federal Regulations and conform the information contained in the Regulatory Agenda with that in the Office of Nuclear Regulatory Research's semiannual report to the EDO entitled "Control of Rulemaking" that provides updates on the status, internal schedules, and prioritization of the majority of NRC rulemaking actions; (2) be consistent with the current Government-wide initiative to streamline agency rulemakings; and (3) reduce staff effort, paperwork, and distribution costs.

To better inform the public of the status of NRC rulemakings, the NRC is exploring alternatives to make the information in the Regulatory Agenda available through electronic communications such as via an electronic bulletin board. The NRC will make its next issuance of the Regulatory Agenda available in an electronic format on an electronic board that is accessible to the public.

Also the NRC has established a computer bulletin board whereby the public can obtain a copy of the proposed rule entitled, "Radiological Criteria for Decommissioning of Nuclear Facilities," and submit comments on this proposed rule via electronic communication. The NRC is exploring mechanisms to make this type of public access to rulemakings available for additional rulemakings in the future. In addition, the NRC routinely invites the public to submit comments on proposed rules in an electronic format.

Recommendation: That the Commission:

Note that it is my intent to reduce the publication of the NRC Regulatory Agenda from quarterly to semiannually and to amend § 2.802(g) to change the frequency of the status report on petitions for rulemaking to reflect this change. The proposed rule that solicits public comment on the amendment to § 2.802(g) will be signed and forwarded to the Office of the Federal Register for publication within 10 working days from the date of this paper unless the Commission instructs otherwise.

  
James M. Taylor  
Executive Director  
for Operations

Enclosure:  
Proposed rule amending § 2.802

SECY NOTE: In the absence of instructions to the contrary, SECY will notify the staff on Friday, April 8, 1994, that the Commission, by negative consent, assents to the action proposed in this paper.

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NUCLEAR REGULATORY COMMISSION

10 CFR PART 2

RIN 3150-AE85

SUMMARY REPORT ON THE STATUS OF PETITIONS  
FOR RULEMAKING; FREQUENCY

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing an amendment to its regulations that would reduce the frequency of the summary report on the status of petitions for rulemaking, which is included in the NRC Regulatory Agenda, from quarterly to semiannually. The proposed action is necessary because the NRC intends to reduce the publication of the NRC Regulatory Agenda from quarterly to semiannually as the status of rulemaking actions and petitions for rulemaking is not subject to frequent change. The proposed rule is intended to reduce the level of NRC staff effort, paperwork, and distribution costs.

DATE: Comment period expires (30 days from date of publication in the Federal Register). Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm Federal workdays.

Copies of any comments received may be examined at the NRC Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Telephone (301) 492-7086 or Toll Free 800-368-5642.

SUPPLEMENTARY INFORMATION:

Background

In a letter dated December 30, 1976, Ms. Karen J. Husemeyer submitted a petition for rulemaking with the NRC. The petition was docketed as PRM-2-4, and a notice of receipt was published in the Federal Register of February 24, 1977 (42 FR 10911). The petitioner requested that the NRC annually review each petition having a docket number. The petitioner also requested that the status of proposed rule changes be made part of an administrative report that would be subject to public review.

In response to this petition for rulemaking, the NRC amended its rules of practice governing the receipt and processing of petitions for rulemaking on October 31, 1977 (42 FR 56950). In the final rule, the NRC stated that it would prepare a summary report on the status of petitions for rulemaking on a quarterly basis and make this report available for public inspection and copying in the Public Document Room. The provision concerning the preparation and availability of the summary report on petitions for rulemaking is codified at 10 CFR 2.802(g). This report was published under the heading "NRC Petitions for Rulemaking" until April 29, 1982, when it was incorporated into the NRC Regulatory Agenda and published in the Federal Register (47 FR 18508).

On November 9, 1979, the Commission also requested that a quarterly summary be prepared for rulemaking efforts not associated with petitions for rulemaking. The NRC staff prepared a report that indicated the status of proposed rules and advance notices of proposed rulemaking for the period of January through March 1980. Although this was a one-time report, the Commission later recommended that the report be updated each quarter. This report was published under the heading "Status of Proposed Rules." It was subsequently replaced by the NRC Regulatory Agenda, first published in the Federal Register on October 29, 1981 (46 FR 53594).

The NRC Regulatory Agenda is a compilation of all rules on which the NRC has recently completed action, has proposed action, or is considering action, and all petitions for rulemaking that have been received by the Commission and are pending disposition. The NRC Regulatory Agenda provides the public with basic information regarding currently active NRC rulemaking activities and petitions for rulemaking. Since 1982, the NRC Regulatory Agenda has been updated and issued each quarter as NUREG-0936.

The NRC also prepares and submits an agenda of its rulemaking activity for inclusion in the Unified Agenda of Federal Regulations, which is updated semiannually and published in the Federal Register. The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing the regulatory actions they are developing that could have an impact on small entities. Executive Order 12866 establishes minimum standards for an agency's agenda, including specific types of information for each entry and publication in a uniform format. The NRC meets these public information requirements through its participation in the Unified Agenda of Federal Regulations. The Unified Agenda of Federal Regulations contains the same information concerning NRC rulemaking activity that is published in the NRC Regulatory Agenda.

### Proposed Action

The Commission believes that the continued publication of the NRC Regulatory Agenda on a quarterly basis is unnecessary. The content and the status of the rulemaking actions and petitions for rulemaking do not change frequently enough to justify a quarterly publication. The NRC believes that a semiannual publication schedule is sufficient to inform the public of the NRC's rulemaking activity and of the current status of NRC's active rulemakings and petitions for rulemaking. The NRC Regulatory Agenda would continue to be published in January and July of each year. Section 2.802(g), which concerns the frequency of the status of petitions for rulemaking, would be revised to reflect this change. The NRC would continue to publish an updated agenda of its rulemaking actions in the Unified Agenda of Federal Regulations each April and October.

To better inform the public of the status of NRC rulemakings, the NRC is exploring alternatives to make the information in the Regulatory Agenda available through electronic communications, such as via an electronic bulletin board. The NRC will make its next issuance of the Regulatory Agenda available in an electronic format on an electronic board that is accessible to the public.

Also the NRC has established a computer bulletin board whereby the public can obtain a copy of the proposed rule

entitled, "Radiological Criteria for Decommissioning of Nuclear Facilities," and submit comments on this proposed rule via electronic communication. The NRC is exploring mechanisms to make this type of public access to rulemakings available for additional rulemakings in the future. In addition, the NRC routinely invites the public to submit comments on proposed rules in an electronic format.

#### Environmental Impact: Categorical Exclusion

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

#### Paperwork Reduction Act Statement

This proposed rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

#### Regulatory Analysis

The NRC has not prepared a regulatory impact analysis for this proposed rule because it is an administrative action that would reduce the frequency of the summary report on the status of petitions for rulemaking, as included in the NRC Regulatory Agenda, from quarterly to semiannually.

## Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that, if promulgated, this rule will not have a significant economic impact on a substantial number of small entities. This is an administrative action that would reduce the frequency of the summary report on the status of petitions for rulemaking, as included in the NRC Regulatory Agenda, from quarterly to semiannually. This proposed action would have no economic impact on any NRC licensee, including small entities.

## Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, that a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

## List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, 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. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 2.

PART 2 - RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS  
AND ISSUANCE OF ORDERS

1. 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. 161b, i, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). 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 and Table 1A of Appendix C 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). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In § 2.802, paragraph (g) is revised to read as follows:

§ 2.802 Petition for rulemaking.

\* \* \* \* \*

(g) The Director, Division of Freedom of Information and Publications Services, Office of Administration, will prepare a summary of petitions for rulemaking before the Commission. The report will be prepared semiannually and include the status of each petition. A copy of the report will be available for public

inspection, and copying for a fee, in the Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Dated at Rockville, Maryland, this            day of  
1994.

For the Nuclear Regulatory Commission.

James M. Taylor,  
Executive Director for Operations.