



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

PDR
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JUN - 8 1994

MEMORANDUM FOR: William T. Russell, Director, Office of Nuclear Reactor Regulation
Robert M. Bernero, Director, Office of Nuclear Material Safety & Safeguards
Edward L. Jordan, Director, Office of Analysis & Evaluation of Operational Data
James Lieberman, Director, Office of Enforcement
Richard L. Bangart, Director, Office of State Programs
Martin G. Malsch, Deputy General Counsel for Licensing and Regulations, Office of the General Counsel
Donnie H. Grimsley, Director, Division of Freedom of Information and Publications Services, Office of Administration
Gerald F. Cranford, Director, Office of Information Resources Management

FROM: C. J. Heltemes, Jr., Deputy Director for Generic Issues and Rulemaking, Office of Nuclear Regulatory Research

SUBJECT: OFFICE REVIEW AND CONCURRENCE ON A PROPOSED RULE - FREQUENCY OF MEDICAL EXAMINATION FOR USE OF RESPIRATORY PROTECTION EQUIPMENT: 10 CFR PART 20

Your concurrence is requested on the enclosed memorandum from E. Beckjord to J. Taylor, which transmits a Federal Register Notice for the subject proposed rule.

The following is a summary of this request:

1. Title: Frequency of Medical Examination for Use of Respiratory Protection Equipment: 10 CFR Part 20.
2. RES Task Leader: Alan K. Roecklein, (301) 415-6223
3. Cognizant Staff: NRR - Roger Pedersen
NMSS - Sami Sherbini
SP - Dennis Sollenberger
4. Requested Action: Review and provide office concurrence on the enclosed proposed rulemaking package.
5. Requested Completion Date: June 29, 1994.
6. Background: This rulemaking is directed by the Regulatory Review Group Implementation Plan as recommended to the Commission in SECY-94-003, dated January 7, 1994 and as approved by the Commission in SRM M940124A dated February 14, 1994. The proposed change is to the frequency of medical examination required to determine whether a worker can safely use

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JUN - 8 1994

Multiple Addressees

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respiratory protection equipment. The change would be from an annual determination to periodical as recommended by ANSI Z-88.6-1984, "Practices for Respiratory Protection" and reaffirmed in ANSI Z-88.2-1992). The requirement for annual medical evaluation has a large financial impact on licensees for no measurable net gain in worker safety. ANSI suggests a frequency of 5 years between examinations for workers up to age 35, every 2 years to age 45, and annual examinations thereafter. The statement of consideration of this proposed rule endorses the ANSI recommendations as an acceptable way to meet the periodic requirement.

- 7. No additional resources are anticipated to implement the rule. A copy of this concurrence package has been forwarded to the Office of the Controller for coordination of resource issues per the EDO memorandum of June 14, 1991.

Original Signatory

C. J. Heltemes, Jr., Deputy Director
for Generic Issues and Rulemaking
Office of Nuclear Regulatory Research

Enclosure:
Memo Beckjord to Taylor

cc w/encl.: R. M. Scroggins, OC
D. C. Williams, IG

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 DACool R/F [g:\roeck\mdexam1\heltltr.ar]
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 BMorris w/encl. CJones, NMSS
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Offc:	*See previous concurrence				
Name:	RPHEB:DRA	RPHEB:DRA	RPHEB:DRA	DD:DRA:RES	D:DRA:RES
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					6/1/94

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555-0001

MEMORANDUM FOR: James M. Taylor, Executive Director for Operations

FROM: Eric S. Beckjord, Director, Office of Nuclear
Regulatory Research

SUBJECT: FREQUENCY OF MEDICAL EXAMINATION FOR USE OF RESPIRATORY
PROTECTION EQUIPMENT: 10 CFR PART 20

Enclosed for your signature is a proposed rule to be published in the Federal Register that would amend 10 CFR Part 20 entitled "Frequency of Medical Examination for Use of Respiratory Protection Equipment." This action was identified to the Commission by the Regulatory Review Group as a potential reduction in burden with no adverse impact on public or worker health and safety and approved by the Commission in SRM M940124A dated February 14, 1994.

Part 20 now requires annual examinations to determine whether a worker can safely use respiratory protection equipment. ANSI Z-88.6-1984, reaffirmed by ANSI Z-88.2-1992, suggests a frequency of 5 years between examinations for workers up to age 35, every 2 years to age 45, and annual examinations thereafter. This proposed rule would require "periodic" examinations and is thus, less prescriptive than the ANSI recommendation. However, the statement of consideration of this proposed rule endorses the ANSI recommendations as an acceptable way to meet the periodic requirement. This approach is consistent with the Commission's support in the February 14 SRM of the staff initiatives to increase the agency's focus on performance based requirements rather than prescriptive requirements. This rulemaking also is consistent with the Commission's support of reduction of regulatory burden, through relief of licensee commitments, above minimum regulatory requirements, that are of only minor safety significance.

Backfit Analysis: The staff has determined that a backfit analysis is not required for this proposed rule because this amendment does not involve any provisions which would impose significant backfits as defined in 10 CFR 50.109(a)(1). The proposed action permits rather than requires changes to procedures, and reduces the frequency at which medical exams are required for respirator use from annual to periodic, and ANSI guidance regarding an acceptable definition of periodic is endorsed in the statement of considerations.

NRC Resource Burden: Completion of this proposed rulemaking is estimated to require 0.4 person-years of NRC staff time.

Notices: A notice to the Commission that the EDO has signed this proposed rule is enclosed for inclusion in the next Weekly Report to the Commission (Enclosure C). The appropriate congressional committees will be notified (Enclosure B).

Coordination: The Offices of Administration, Nuclear Material Safety and Safeguards, Nuclear Reactor Regulation, Enforcement, State Programs, Information Resources Management, and Analysis and Evaluation of Operational Data, concur in these proposed amendments. The Office of the General Counsel has no legal objection. Resources to implement this rulemaking are included in the FY 1994-1998 Five-Year Plan, and no additional resources would be required for its implementation.


Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

Enclosures:

- A. Federal Register Notice
of Proposed Rulemaking
- B. Congressional Letters
- C. Weekly Report to the Commission
- D. Approval for Publication

respiratory protection equipment. The change would be from an annual determination to periodical as recommended by ANSI Z-88.6-1984, "Practices for Respiratory Protection" and reaffirmed in ANSI Z-88.2-1992). The requirement for annual medical evaluation has a large financial impact on licensees for no measurable net gain in worker safety. ANSI suggests a frequency of 5 years between examinations for workers up to age 35, every 2 years to age 45, and annual examinations thereafter. The statement of consideration of this proposed rule endorses the ANSI recommendations as an acceptable way to meet the periodic requirement.

7. No additional resources are anticipated to implement the rule. A copy of this concurrence package has been forwarded to the Office of the Controller for coordination of resource issues per the EDO memorandum of June 14, 1991.


C. J. Heltemes, Jr. Deputy Director
for Generic Issues and Rulemaking
Office of Nuclear Regulatory Research

Enclosure:
Memo Beckjord to Taylor

cc w/encl.: R. M. Scroggins, OC
D. C. Williams, IG

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Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

Enclosures:

- A. Federal Register Notice of Proposed Rulemaking
- B. Congressional Letters
- C. Weekly Report to the Commission
- D. Approval for Publication

RECORD NOTE: A draft copy of the proposed rule was sent to OIG for information on _____.

Distribution: [G:\RPHEB\ROECK\MDEXAMI\TAYLORLTR.AR]

DACool R/F	ARoecklein w/encl
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Name: *ARoecklein:rg	*Dragonette	*DCool	FCostanzi	BMorris	CJHeltemes
Date: 3/03/94	5/17/94	6/01/94	6/2/94	6/2/94	6/1/94

Office: D:RES
 Name: ESBeckjord
 Date: / /94

ENCLOSURE A

Federal Register
Proposed Rule

[7590-01]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN

Frequency of Medical Examinations For Use of Respiratory Protection
Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations concerning the frequency at which medical examinations are required to assure the safe use of respiratory protection equipment. 10 CFR 20.1703 (a)(3)(v) currently requires the determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment. The proposed revision would require determination by a physician prior to first field use of respirators, and periodically thereafter, that the individual user is medically fit to use the respiratory protection equipment.

DATE: Comment period expires (60 days following publication in the Federal Register). Comments received after this date will be considered if it is

Enclosure A

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 public comments received may be examined at: the NRC Public Document Room, 2120 L Street NW. (lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6223.

SUPPLEMENTARY INFORMATION:

Background

The requirement for an annual medical examination to assure safe use of respiratory equipment has been in the regulations for some time. The need for such examinations was reconfirmed by the American National Standards Institute (ANSI) in ANSI Z88.2-1992. However, considerable experience with implementation of the requirement has indicated that the annual frequency of examination is costly and could be reduced significantly with no adverse impact on health and safety. The NRC Regulatory Review Group reviewed the existing requirement and concluded that the frequency of medical exam could be reduced without adverse impact on worker safety. This change was recommended

to the Commission as a candidate for licensee burden reduction in SECY-94-003 and supported by the Commission by memorandum from Samuel J. Chilk to James R. Taylor dated February 14, 1994.

The ANSI reviewed this issue and in ANSI Z88.6 (1984) published a recommendation that the frequency of medical examination could be reduced based on age of the worker. ANSI recommended examination every 5 years up to age 35; every 2 years up to age 45, and annually thereafter. ANSI also recommended special additional evaluations after prolonged absence from work for medical reasons or whenever a functional disability has been identified. The NRC staff considers these ANSI recommendations, as reconfirmed in ANSI Z88.2-1992, acceptable.

The proposed rule provides for periodic medical examinations, rather than specifying an annual examination. Licensees would therefore, under this proposed rule, be able to extend the time between examinations. Frequencies similar to those contained in the ANSI standard would be considered acceptable by the NRC staff. Alternatively a licensee could propose a different frequency for approval by the NRC staff. This approach is consistent with the Commission's support of the staff initiatives to increase the agency's focus on performance based requirements rather than prescriptive requirements. This rulemaking also is consistent with the Commission's support of reduction of regulatory burden, through relief of licensee commitments, above minimum regulatory requirements, that are of only minor safety significance.

The proposed rule also changes the time of initial medical examination from prior to initial fitting of respirators, to prior to first field use. This change provides additional flexibility to licensees without any adverse impact on worker safety. Any physical reason for not using a respirator would be

apparent during the initial training/fitting exercise, in nonhazardous conditions, and would pose no danger to the worker. Less obvious medical reasons for not using respirators would be detected by the initial medical exam prior to the first field use which might include hazardous conditions.

The proposed rule uses the terminology "medically fit" rather than "physically able" to use a respirator. This terminology more accurately reflects the purpose of the medical exam in that some conditions which would preclude respirator use may not be physical.

ANSI Z88.6-1984 provides guidelines for the scope of an examination which would demonstrate that a worker was medically fit to use respiratory protection devices. The guidelines include consideration of pulmonary function, cardiovascular factors, neurological and psychological conditions, among others. The NRC staff believes that these guidelines provide an acceptable working definition of the term medically fit.

Agreement States

The proposed amendment would apply to all NRC licensees. Agreement States must establish and maintain compatible regulations and programs. Although the radiation protection provisions in 10 CFR Part 20 are normally Division I matters of compatibility, this rulemaking defines minimum procedures needed to ensure health and safety. As such, an Agreement State should have the flexibility to impose a greater frequency of examinations if considerations in their State warrant such an approach. The rulemaking is therefore proposed as Division II. [OSP reviewer: The proposed changes were provided to the Agreement States for their review. State comments were or, in view

of the nominal impact on Agreement States licensees, the proposed changes were not provided to the Agreement States for review.] Agreement States [also] have the opportunity to comment on this proposed change during the public comment period.

Description

The provisions of 10 CFR Part 20.1703 (a)(3)(v) would be changed to require determination by a physician prior to first field use of respirators, and periodically thereafter, that the individual user is medically fit to use the respiratory protection equipment. This change would require medical examination prior to first field use rather than as is presently required, prior to initial fitting. Frequency of examination is changed from "at least every 12 months," to "periodically," with guidance on the meaning of periodically provided in this statement of considerations. Regulatory Guide 8.15, "Acceptable Programs for Respiratory Protection," is planned to be revised to provide further guidance on acceptable frequency of medical examinations. The proposed change also makes it clear that the purpose of the examination is to determine that a user is "medically fit," to use the respiratory protection equipment as discussed in ANSI Z88.6-84, by replacing the words "physically able."

Impact

The Commission believes that these proposed changes will constitute a reduction of burden and an increase in flexibility for licensees, without any significant reduction in worker health or safety. It is expected that licensees having approved respiratory protection programs will adopt at least

the ANSI recommended frequency of medical examination which is based on age: every 5 years up to age 35; every 2 years up to age 45; and annually thereafter.

The respiratory use medical examination is estimated to cost approximately \$50.00 per exam and an order of magnitude estimate of the number of examinations performed per an outage year at a nuclear power plant is 1000. If 60 plants have outages per year, the current cost for annual medical examinations is at least \$3,000,000.00. The demographics of the nuclear workforce (1/2 <35 years; 1/3 <45; 1/6 >45) suggests that the number of exams could easily be halved thus saving \$1.5 million each year just during maintenance or refueling outages at nuclear power plants. Clearly a considerable savings can be realized by this change freeing resources for more effective health and safety efforts.

Certain materials licensees also have respiratory protection programs. These are fuel cycle facilities, some research facilities including broad scope academic licensees and some manufacturing groups. The impacts on these licensees are minimal since the number of respirator users is small. The result of the proposed rule is expected to be a reduction in costs due to a reduced frequency of examination.

Some costs would be incurred by licensees in making revisions to procedures, but those would be offset by the increased flexibility and reduced exam frequency savings. Income to the medical profession would be reduced somewhat in those areas where significant respiratory programs are in place.

Finding of No Significant Environmental Impact: Availability

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required.

The NRC has not prepared a separate draft environmental assessment. The following discussion in conjunction with the regulatory analysis which follows constitutes the assessment. Performing a medical examination to determine that a worker is medically fit to use respiratory protection equipment generates minimal waste, results in small recordkeeping burden, and has no other identifiable environmental impact. The effect of this rulemaking would be to at least halve the frequency of such exams, thus reducing any conceivable environmental impact even further.

Paperwork Reduction Act Statement

This proposed rule does not contain any new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget in approval numbers 3150-0014, 3150-0005, and 3150-0006.

Regulatory Analysis

The regulatory analysis for this proposed rulemaking is as follows:

1. ALTERNATIVES

a - No Action

The annual medical examination requirement has been in place for a number of years, and is considered by the staff to provide adequate health and safety to workers. However, the annual requirement consumes considerable resources with little demonstrated improvement in worker health or safety when compared to longer examination intervals. The ANSI committee, and an extensive public review of the proposed standard Z88.6 (1984), found no reasons for not reducing the frequency of medical examination. Thus, it would appear that the frequency of exam can be significantly reduced at considerable savings and with no adverse impact on worker health and safety. The "no-action" alternative is therefore not considered preferable in view of the cost of compliance relative to the minimal risk reduction observed.

b - Regulatory Guidance

The alternative of modifying the guidance in Regulatory Guide 8.15 is not considered a viable alternative for providing regulatory relief because the existing rule is very specific, and requirements in the regulations cannot be revised by a regulatory guide.

c - Changes to Regulation

Since the problem is a specific requirement in a rule, the most effective solution providing regulatory relief is to modify the rule. Other alternatives such as issuance of an order, modifying license conditions or discretionary enforcement were considered. These alternatives are usually interim and are used when immediate action is deemed necessary. Since a permanent correction is desired and since there is no reason for immediate action, these alternatives are not selected.

2. IMPACT OF PROPOSED ACTION

a - Licensees

Licensees having respiratory protection programs will continue to be required to provide medical examinations to workers. The only change is to permit reducing the frequency with which such examinations are required. This will constitute a reduction in burden and costs. Minor changes in procedures may need to be written, which is a one time cost and offset by the savings in medical exam costs.

Some flexibility would also be provided to licensees regarding when the initial medical exam would be required. The proposed rule would permit medical examination after training and fitting, but before first field use.

b - Workers

Workers would be subject to medical examinations for respirator use less frequently. Experience as found by the ANSI review, with the annual respiratory medical exam requirement has shown that a less frequent exam for younger workers, with special exams if conditions change, would be adequate to

identify any medical reasons for not using respirators. The proposed action would not impact medical examination requirements adopted by licensees for other reasons. Licensees would continue to be required to conduct medical examinations. Thus, the health and safety of workers would not be impacted.

c - NRC Resources

It is estimated that 0.4 staff years of effort by NRC staff will be expended on the next year to complete this rulemaking.

The NRC requests public comment on this regulatory analysis. Comments on the analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities. The proposed amendments would apply to all NRC and Agreement State licensees. Because these amendments would reduce burden, they are considered to have no adverse economic impact on any large or small entities.

However, the NRC is seeking comments and suggested modifications because of the widely differing conditions under which small licensees operate. Any small entity subject to this proposed regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the NRC of this in a comment that indicates --

(a) The licensee's size in terms of annual income or revenue, number of employees and, if the licensee is a treatment center, the number of beds and patients treated annually;

(b) How the proposed regulation would result in a significant economic burden upon the licensee as compared to that on a larger licensee;

(c) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities;

(d) The benefits that would be gained or the detriments that would be avoided by the licensee if the proposed regulation was modified as suggested by the commenter; and

(e) How the regulation, as modified, would still adequately protect the public health and safety.

Backfit Analysis

Because 10 CFR Part 20 applies to all NRC licensees, any proposed changes to this part must be evaluated to determine if these changes constitute backfitting for reactor licensees such that the provisions of 10 CFR 50.109, "Backfitting," apply. The following discussion addresses that evaluation.

The 10 CFR 50.109 definition of "Backfit" includes any modification of the procedures required to operate a facility resulting from an amended provision in the Commission's rules. Since this proposed rule would permit but not require nuclear power reactor licensees to modify their procedures regarding the frequency of respiratory medical examinations, the NRC staff believes that the proposed change does not constitute a backfit. In addition, the effect of these proposed changes is to increase flexibility and reduce the frequency at which medical examinations for respiratory use are required. It

is estimated that this rule change would save the nuclear power industry and other NRC and state licensees several million dollars per year with no adverse impact on worker health and safety.

Some minor changes in procedures could be necessary if more flexible frequency of examination is adopted, but the costs would be offset by the savings in reduced frequency of examination. Thus, the NRC believes that the modifications proposed are not backfits.

List of Subjects

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, 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 20.

PART 20 -- STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2282); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Sec. 20.408 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

* * * * *

2. Section 20.1703 (a)(3)(v) is revised to read as follows:

§ 20.1703 Use of individual respiratory protection equipment

* * * * *

(a) If the licensee uses respiratory protection equipment to limit intakes pursuant to § 20.1702 -

* * * * *

(3) The licensee shall implement and maintain a respiratory protection program that includes -

* * * * *

(v) Determination by a physician prior to the first field use of respirators, and periodically thereafter, that the individual user is medically fit to use the respiratory protection equipment.

* * * * *

Dated at Rockville, Maryland, this ___ day of _____, 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.

Sec. 20.408 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

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* * * * *

(v) Determination by a physician prior to the first field use of respirators, and periodically thereafter, that the individual user is medically fit to use the respiratory protection equipment.

* * * * *

Dated at Rockville, Maryland, this ___ day of _____, 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.

*See previous concurrence

Office: RPHEB:DRA*	RPHEB:DRA	RPHEB:DRA	DD:DRA:RES	D:DRA:RES	D/NRR
Name: ARoecklein;rg	KDragonette	DCool	FCostanza	BMorris	WRussell
Date: 5/13/94	5/17/94	6/1/94	6/13/94	6/3/94	/ /94
Office: D:NMSS	D:AEOD	D:OE	D:OSP	D:OGC	D:ADM/DFIPS
Name: RBernero	EJordan	JLieberman	RBangart	MMalsch	DGrimsley
Date: / /94	/ /94	/ /94	/ /94	/ /94	/ /94
Office: D:IRM	DD:GIR:RES	D:RES	EDO		
Name: GCranford	CJHeltemes	ESBeckjord	JMTaylor		
Date: / /94	/ /94	/ /94	/ /94		

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* * * * *

(3) The licensee shall implement and maintain a respiratory protection program that includes -

* * * * *

(v) Determination by a physician prior to the first field use of respirators, and periodically thereafter, that the individual user is medically fit to use the respiratory protection equipment.

* * * * *

Dated at Rockville, Maryland, this ___ day of _____, 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.

Office: RPHEB:DRA*	RPHEB:DRA	RPHEB:DRA	DD:DRA:RES	D:DRA:RES	D/NRR
Name: ARoedklein;rg	KDragonette	DCool	FCostanzi	BMorris	WRussell
Date: 3/3/94	/ / 94	/ / 94	/ / 94	/ / 94	/ / 94
Office: D:NMSS	D:AEOD	D:OE	D:OSP	D:OGC	D:ADM/DFIPS
Name: RBernero	EJordan	JLieberman	RBangart	MMalsch	DGrimsley
Date: / / 94	/ / 94	/ / 94	/ / 94	/ / 94	/ / 94
Office: D:IRM	DD:GIR:RES	D:RES	EDO		
Name: GCranford	CJHeltemes	ESBeckjord	JMTaylor		
Date: / / 94	/ / 94	/ / 94	/ / 94		

(v) Determination by a physician prior to the first field use of respirators, and periodically thereafter, that the individual user is medically fit to use the respiratory protection equipment.

* * * * *

Dated at Rockville, Maryland, this ___ day of _____, 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.

*See previous concurrence

Office: RPHEB:DRA*	RPHEB:DRA*	RPHEB:DRA*	DD:DRA:RES	D:DRA:RES	D/NRR
Name: ARoecklein;rg	KDragonette	DCool	FCostanzi	BMorris	WRussell
Date: 5/13/94	5/17/94	6/01/94	/ /94	/ /94	/ /94
Office: D:NMSS	D:AEOD	D:OE	D:OSP	D:OGC	D:ADM/DFIPS
Name: RBernero	EJordan	JLieberman	RBangart	MMalsch	DGrimsley
Date: / /94	/ /94	/ /94	/ /94	/ /94	/ /94
Office: D:IRM	DD:GIR:RES	D:RES	EDO		
Name: GCranford	CJHeltemes	ESBeckjord	JMTaylor		
Date: / /94	/ /94	/ /94	/ /94		

DOCUMENT NAME: ENCLOSURE A Federal Register Proposed Rule
AUTHOR'S NAME: A. Roecklein
FILE NAME: G:\RPHEB\ROECK\MDEXAMI\MDEXAMI.A
DATE: June 2, 1994

ENCLOSURE #

Congressional Letters



DRAFT

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

The Honorable Richard H. Lehman, Chairman
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Enclosed for the information of the Subcommittee is a copy of a Notice of Proposed Rulemaking to be published in the Federal Register. The Nuclear Regulatory Commission is proposing to amend its regulations on radiation protection to reduce the frequency at which medical examinations are required for users of respiratory protection equipment. The current rules require annual reexamination.

The American National Standards Institute has recommended that respiratory medical exams could be performed every 5 years for workers under 35 years of age, every 2 years for workers between the age of 35 and 45 years, and annually thereafter. The NRC is endorsing this recommendation for reasons that it constitutes a reduction in burden on licensees with no known adverse impact on health and safety of workers.

The Commission is issuing the proposed rule for public comment.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
Federal Register Notice

cc: Representative Barbara Vucanovich

DRAFT

The Honorable Richard H. Lehman, Chairman
Subcommittee on Energy and Mineral Resources
Committee on Natural Resources
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Enclosed for the information of the Subcommittee is a copy of a Notice of Proposed Rulemaking to be published in the Federal Register. The Nuclear Regulatory Commission is proposing to amend its regulations on radiation protection to reduce the frequency at which medical examinations are required for users of respiratory protection equipment. The current rules require annual reexamination.

The American National Standards Institute has recommended that respiratory medical exams could be performed every 5 years for workers under 35 years of age, every 2 years for workers between the age of 35 and 45 years, and annually thereafter. The NRC is endorsing this recommendation for reasons that it constitutes a reduction in burden on licensees with no known adverse impact on health and safety of workers.

The Commission is issuing the proposed rule for public comment.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
Federal Register Notice

cc: Representative Barbara Vucanovich

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ENCLOSURE C

Weekly Report

WEEKLY REPORT TO THE COMMISSION
OFFICE OF NUCLEAR REGULATORY RESEARCH

Proposed Rule to be Signed by EDO

On _____, 1994, the Executive Director for Operations approved publication of a proposed rule that would amend 10 CFR Part 20 entitled "Frequency of Medical Examinations For Use of Respiratory Protection Equipment." This amendment reduces the frequency of medical examination for respirator use from annually to periodically, and the preamble to the proposed rule endorses recommendations from the American National Standards Institute (ANSI) as an acceptable means of meeting the intent of "periodically." ANSI recommended reexamination every 5 years up to age 35, every 2 years from 35 to 45, and annually thereafter.

This rule change was recommended to the Commission by the Regulatory Review Group in SECY-94-003, as a candidate for some reduction in burden with no adverse impact on worker health and safety.

This constitutes notice to the Commission that, in accordance with the rulemaking authority delegated to the EDO, the EDO has signed this proposed rule for publication in the Federal Register.

Enclosure D

Approved for Publication

Approved For Publication

The Commission delegated to the EDO (10 CFR 1.31(c)) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551 (4)) subject to the limitations in NRC Management Directive 9.17, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, and 0310.

The proposed rule, entitled "Frequency of Medical Examinations For Use of Respiratory Protection Equipment," would amend Part 20 by: permitting licensees to perform the required medical exam prior to first field use of respirators rather than as presently required, prior to first fitting; permit licensees to perform reexamination periodically rather than annually as is currently required (the preamble to the proposed rule endorses the ANSI recommendation of every 5 years up to age 35, every 2 years up to age 45, and annually thereafter); and making it clear that the purpose of the examination is to determine that the worker is "medically fit" to use respirators rather than "physically able." This rulemaking represents a reduction in burden on licensees with no adverse impact on worker health and safety.

This proposed rule does not constitute a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 7, 8, or 9 Subpart C concerning matters of policy. I, therefore, find that this rule is within the scope of my rulemaking authority and am proceeding to issue it.

Date

James M. Taylor
Executive Director for Operations

Enclosure D